

# SUPPLEMENT I

*(January 3, 1935, to August 31, 1935)*

TO

# THE CODE OF THE LAWS

OF THE

# UNITED STATES OF AMERICA

1934 EDITION

CONTAINING THE GENERAL AND PERMANENT STATUTES  
ENACTED BY THE FIRST SESSION OF THE SEVENTY-  
FOURTH CONGRESS, TOGETHER WITH PER-  
FECTING AMENDMENTS TO THE CODE

[WITH ANCILLARIES AND INDEX]



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## CONTENTS

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	Page
PREFACE-----	v
TEXT OF STATUTES AND CODE CORRECTIONS-----	1
PARALLEL REFERENCE TABLES:	
STATUTES INCLUDED OR CITED IN THIS SUPPLEMENT-----	295
TABLES OF STATUTES REPEALED-----	303
INDEX-----	305

Page iii



## PREFACE

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This first of the cumulative supplements to the Code of Laws of the United States, 1934 Edition, contains the additions to and changes in the general and permanent laws of the United States made by the first session of the Seventy-fourth Congress (Jan. 3, 1935, to Aug. 31, 1935), together with correction of the few errors discovered in the 1934 Edition of the Code to date.

Ordinarily a new cumulative supplement may be expected about 3 months after the end of each session of the Congress, such time being required for compilation, indexing, printing, and binding, but if the legislation of a session be unusually small a supplement will be deferred.

RAYMOND J. CANNON,  
*Chairman, Committee on Revision of the Laws,  
House of Representatives.*

WASHINGTON, *December 20, 1925.*



# UNITED STATES CODE

## SUPPLEMENT I

[January 3, 1935, to August 31, 1935]

### TITLE 2.—THE CONGRESS

#### Chapter 3.—COMPENSATION OF MEMBERS

§ 36. Salaries of Senators appointed or elected to fill vacancies. Senators elected, whose term of office begins on the 3d day of January, and whose credentials in due form of law shall have been presented in the Senate, may receive their compensation monthly from the beginning of their term.

Salaries of Senators appointed to fill vacancies in the Senate shall commence on the day of their appointment and continue until their successors are elected and qualified: *Provided*, That when Senators have been elected during a sine die adjournment of the Senate to succeed appointees, the salaries of Senators so elected shall commence on the day following their election.

Salaries of Senators elected to fill such vacancies shall commence on the day they qualify.

Salaries of Senators elected during a session to succeed appointees shall commence on the day they qualify: *Provided*, That when Senators have been elected during a session to succeed appointees, but have not qualified, the salaries of Senators so elected shall commence on the day following the sine die adjournment of the Senate.

When no appointments have been made the salaries of Senators elected to fill such vacancies shall commence on the day following their election. (As amended Feb. 13, 1935, c. 6, § 1, 49 Stat. 22.)

#### Chapter 4.—OFFICERS AND EMPLOYEES OF SENATE AND HOUSE OF REPRESENTATIVES

##### § 60c. Chaplains; payment of salaries.

R. S. § 55, cited to the text of this section, is from Act Aug. 4, 1854, c. 42, § 12, 10 Stat. 573; Act Mar. 3, 1857, 11 Stat. 255.

§ 68a. Same; materials, supplies and fuel. Payments from the contingent fund of the Senate for materials and supplies (including fuel) hereafter purchased through the Procurement Division of the Treasury Department shall be made by check upon vouchers approved by the Committee to Audit and Control the Contingent Expenses of the Senate. (July 8, 1935, c. 374, § 1, 49 Stat. 463.)

§ 92a. Pay of clerical assistants as affected by death of Senator or Representative.

This section is affected by sections 92b to 92d of this title.

§ 92b. Pay of clerical assistants as affected by death or resignation of Member of House. Notwithstanding the provisions of section 92a of this title, in

case of the death or resignation of a Member of the House during his term of office, the clerical assistants designated by him and borne upon the clerk hire pay rolls of the House of Representatives on the date of such death or resignation shall be continued upon such pay rolls at their respective salaries until the successor to such Member of the House is elected to fill the vacancy. In no case shall such clerical assistants be continued on said pay roll for a period exceeding six months after the date of death or resignation of a Member of the House. (Aug. 21, 1935, c. 600, § 1, 49 Stat. 679.)

Section 4 of the act cited to the text provided that the act should be effective as of January 3, 1935.

§ 92c. Same; performance of duties. Any clerical assistants who continue on the House pay rolls under the provisions of section 92b of this title shall, while so continued, perform their duties under the direction of the Clerk of the House, and he is authorized and directed to remove from such pay rolls any such clerks who are not attending to the duties for which their services are continued. (Aug. 21, 1935, c. 600, § 2, 49 Stat. 680.)

Section 4 of the act cited to the text provided that the act should be effective as of January 3, 1935.

§ 92d. Same; definition of "Member of House." As used in section 92b of this title the phrase "Member of the House" shall mean a Representative, Representative-elect, Delegate, Delegate-elect, Resident Commissioner, or Resident Commissioner-elect. (Aug. 21, 1935, c. 600, § 3, 49 Stat. 680.)

#### Chapter 5.—LIBRARY OF CONGRESS

§ 135a. Books for adult blind; annual appropriation. There is authorized to be appropriated annually to the Library of Congress, in addition to appropriations otherwise made to said Library, the sum of \$175,000, which sum shall be expended under the direction of the Librarian of Congress to provide books published either in raised characters, on sound-reproduction records, or in any other form, for the use of the adult blind residents of the United States, including the several States, Territories, insular possessions, and the District of Columbia: *Provided*, That of said annual appropriation of \$175,000, not exceeding \$100,000 thereof shall be expended for books in raised characters, and not exceeding \$75,000 thereof shall be expended for sound-reproduction records. (As amended June 14, 1935, c. 242, § 1, 49 Stat. 374.)

§ 137b. Same; Interstate Commerce Commission; Chief of Army Engineering Corps.

"Aug. 29" in the citation should read "Aug. 28."



## TITLE 3.—THE PRESIDENT

### Chapter 2.—OFFICE AND COMPENSATION OF PRESIDENT

§ 46. Detail of employees of executive departments to office of President.

Repeated, Act Feb. 2, 1935, c. 3, § 1, 49 Stat. 6

### Chapter 3.—WHITE HOUSE POLICE

§ 62. Personnel; appointment; vacancies. (a) The White House Police Force shall consist of one captain with grade corresponding to that of captain (Metropolitan Police), one lieutenant with grade correspond-

ing to that of lieutenant (Metropolitan Police), three sergeants with grade corresponding to that of sergeant (Metropolitan Police); and of such number of privates, with grade corresponding to that of private of the highest grade (Metropolitan Police), as may be necessary, but not exceeding 55 in number. Members of the White House Police shall be appointed from the members of the Metropolitan Police Force and the United States Park Police Force from lists furnished by the officers in charge of such forces. Vacancies shall be filled in the same manner. (As amended May 28, 1935, c. 154, 49 Stat. 204.)

The amendment affected subsection (a) set out above.





## TITLE 5.—EXECUTIVE DEPARTMENTS AND GOVERNMENT OFFICERS AND EMPLOYEES

### Chapter 1.—PROVISIONS APPLICABLE TO DEPARTMENTS AND OFFICERS GENERALLY

#### § 57. Apportionment of compensation.

The word "as" after the word "well" in line 16 should be omitted

### REORGANIZATION OF EXECUTIVE AGENCIES

#### § 132. Termination of power of President.

#### POSTPONEMENT OF EFFECTIVE DATES PURSUANT TO SECTION 22 OF EXECUTIVE ORDER NO. 6166

Executive Order No. 6624, March 1, 1934, provided that "The effective date of the last paragraph of section 1 of Executive Order No. 6166, which abolishes the Federal Employment Stabilization Board and transfers its records to the Federal Emergency Administration of Public Works, be, and it is hereby, further deferred until such time as the functions of that Board may be transferred as provided in Executive Order No. 6623 of this date."

Executive Order No. 7077, June 15, 1935, provided that "except as hereinafter provided, the transfers, consolidations, and eliminations contemplated by section 4 of Executive Order No. 6166, of June 10, 1933, as amended, which are not effected prior to June 30, 1935, pursuant to Executive Order No. 6224, of July 27, 1933, Executive Order No. 6340, of December 28, 1933, Executive Order No. 6727, of May 29, 1934, and Executive Order No. 6927, of December 21, 1934, together with the operation of all other provisions of Executive Order No. 6166, of June 10, 1933, as amended, insofar as they relate to said section 4, be further delayed until December 31, 1935. *Provided*, That any transfer, consolidation, or elimination, in whole or in part, under said section 4, including any other provisions of the said order of June 10, 1933, insofar as they relate to section 4 thereof, may be made operative and effective between June 30, 1935, and December 31, 1935, by order of the Secretary of the Treasury, approved by the President."

### CENTRAL STATISTICAL COMMITTEE AND CENTRAL STATISTICAL BOARD

§ 141. Establishment of "Committee" and "Board"; purposes generally. There are established a Central Statistical Committee (referred to as the "Committee") and a Central Statistical Board (referred to as the "Board") to plan and promote the improvement, development, and coordination of, and the elimination of duplication in, statistical services carried on by or subject to the supervision of the Federal Government, and, so far as may be practicable, of other statistical services in the United States. (July 25, 1935, c. 416, § 1, 49 Stat. 498.)

§ 142. Composition of Committee. The Committee shall consist of the Secretary of the Treasury, the Secretary of Agriculture, the Secretary of Commerce, and the Secretary of Labor. (July 25, 1935, c. 416, § 2, 49 Stat. 498.)

§ 143. Central Statistical Board; composition; appointment and compensation. The Board shall consist of a chairman, who shall be appointed by the President, with the advice and consent of the Senate, and not to exceed thirteen additional members, who shall be selected in such manner as the President shall prescribe: *Provided*, That not less than ten of such members shall be persons already in the service of the United States. The chairman and all the members shall be persons technically trained in statistics, economics, or public administration, known in their profession as of high standing and wide experience. The chairman shall be the chief executive officer of the Board, shall receive a salary of \$10,000 a year, and shall not engage in any private business, vocation, or employment: *Provided, however*, That if the chairman shall at the same time hold any other paid position in the service of the United States, he shall re-

ceive during such tenure no additional remuneration for acting as chairman of the Board. No other member of the Board shall receive compensation for his services as such member, except that the Board may provide that any such other member not at the same time holding any other paid position in the service of the United States shall, while attending or traveling to or from meetings of the Board or of committees thereof, receive a salary of not more than \$25 per diem, and in addition thereto necessary traveling and subsistence expenses. (July 25, 1935, c. 416, § 3, 49 Stat. 498.)

§ 144. Same; appointment of employees; expenditures; appropriation authorized. The Board shall have authority to appoint such employees as it deems necessary for its own functions. All such employees shall be subject to the civil-service laws and sections 661 to 674 of this title, except that the Board may, with the consent of the Civil Service Commission, appoint and fix the compensation of any person or persons for temporary periods without regard to the civil-service laws and said sections: *Provided*, That no person shall hold such temporary appointment or appointments for an aggregate period of more than 12 months. The Board may make such expenditures (including expenditures for personal services and rent at the seat of Government and elsewhere; for law books and books of reference; and for paper, printing, and binding) as may be necessary to carry out the provisions of this Act and as may be provided for by the Congress from time to time. The Board may purchase supplies or services where the aggregate amount involved is not more than \$50, without regard to the provisions of section 5 of Title 41. There is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, annually such sums as may be necessary for the expenses of the Board not to exceed \$180,000, of which amount not to exceed \$170,000 may be expended for personal services in the District of Columbia. (July 25, 1935, c. 416, § 4, 49 Stat. 499.)

§ 145. Same; powers and duties; annual report. The Board shall—

(a) At the request of the President or the Committee, or may of its own motion, investigate and make recommendations with respect to any existing or proposed statistical work carried on by an agency of, or subject to the supervision of, the Federal Government.

(b) Have the power, with the consent of the agency concerned, to investigate and make recommendations with respect to any existing or proposed statistical work carried on by any agency in the United States other than the agencies specified in subsection (a) of this section;

(c) Have the power, subject to such rules and regulations as the President or the Committee may prescribe, to require from any agency specified in subsection (a) of this section information, papers, reports, and original records concerning any existing or proposed statistical work carried on by or subject to the supervision of any such agency: *Provided*, That this subsection shall not be construed to require or to make lawful any disclosure of confidential information when such disclosure is specifically prohibited by law;

(d) Plan and promote the economical operation of agencies engaged in statistical work and the elimination of unnecessary work both on the part of such

agencies and on the part of persons called on by such agencies to furnish information.

(e) Perform such other duties consistent with section 141 of this subchapter as the President or the Committee may authorize, and make such reports to the Committee as the Committee may require; and

(f) Make an annual report to the Committee and to the President for transmittal to Congress. (July 25, 1935, c. 416, § 5, 49 Stat. 499.)

§ 146. Same; termination of Board created by Executive Order and transfer records, property and employees. The Central Statistical Board created by Executive Order Numbered 6225, dated July 27, 1933, as amended, shall cease to exist at such time as the Committee shall declare that seven members have qualified for membership in the Board; and thereafter all records, papers, property, and funds of the old Board shall become records, papers, property, and funds of the Board; and such employees as shall pass tests of fitness prescribed by the Civil Service Commission shall acquire classified civil-service status and shall be employees of the Board at the grades and salaries specified in their respective examinations: *Provided*, That this section shall not be construed to impair any obligation incurred by the old Board. (July 25, 1935, c. 416, § 6, 49 Stat. 499.)

§ 147. Same; rules and regulations. The Board with the approval of the Committee is authorized to prescribe rules and regulations to carry out the provisions of this subchapter. (July 25, 1935, c. 416, § 7, 49 Stat. 500.)

§ 148. Separability clause. If any provision of this subchapter, or the application thereof to any person or circumstance, is held invalid, the remainder of the subchapter, and the application of such provisions to other persons or circumstances, shall not be affected thereby. (July 25, 1935, c. 416, § 8, 49 Stat. 500.)

§ 149. Duration of law. This subchapter shall cease to be in effect and the agencies established hereunder shall cease to exist at the expiration of five years after July 25, 1935. (July 25, 1935, c. 416, § 9, 49 Stat. 500.)

## Chapter 2.—DEPARTMENT OF STATE

§ 168c. Same; limitation of number of copies to be printed and bound; distribution. The total number of copies of any volume to be printed and bound shall not exceed one thousand two hundred and twenty-seven, which shall be distributed as provided in section 168a of this title, except that each Senator shall receive not to exceed three copies and each Representative not to exceed one (Mar. 22, 1935, c. 39, § 1, 49 Stat. 69.)

§ 169. Procurement of information for corporations, firms and individuals; expense of cablegrams and telephone service involved; appropriation.

"Mar. 1, 1933, c. 144, Title I, § 1, 47 Stat. 1379" in the citation should read "Mar. 1, 1933, c. 144, Title I, 47 Stat. 1379"

Repeated, Act Mar. 22, 1935, c. 39, § 1, 49 Stat. 76.

## Chapter 5.—DEPARTMENT OF JUSTICE

§ 299. Officials for investigation of official matters in Departments of Justice and State.

"46 Stat 1309" in citation should read "46 Stat 1322"

## Chapter 7.—DEPARTMENT OF NAVY

### ANNUAL REPORTS TO CONGRESS

§ 468. As to repairs or changes on vessels.

The last proviso of the Act of July 18, 1935, cited to section 468a, provided as follows:

"Such parts of the Act for March 2, 1907, March 2, 1909, and August 29, 1916, contained in section 468, title 5 of the United States Code, as relate to statutory limit of expenditure for repairs or changes on naval vessels, are hereby repealed."

§ 468a. Limiting expenditures for repairs or changes to naval vessels. The total appropriation expenditures for repairs or changes to a vessel of the Navy undertaken in a navy yard shall not exceed \$450,000 for any eighteen consecutive months: *Provided*, That if, during the overhaul of a vessel, the estimated cost for such overhaul having been approved as within the limits herein imposed, accomplishment of essential items will involve expenditures in excess of such limits, the Secretary of the Navy may, and he is hereby authorized, appropriation otherwise being available, to complete the work and it shall thereupon be his duty to report to the Congress at the next regular session thereof the expenditures from each of the appropriations involving expenditures in excess of the authorized limit for such work (July 18, 1935, c. 386, 49 Stat. 482.)

## Chapter 9.—DEPARTMENT OF AGRICULTURE

§ 520a. Stenographic reporting service.

Repeated, Act May 17, 1935, c. 131, Title I, § 1, 49 Stat. 248

§ 547. Exchange of motor-propelled vehicles.

Repeated, Act May 17, 1935, c. 131, Title I, § 1, 49 Stat. 280.

§ 556b. Statistics relating to turpentine and rosin. The Secretary of Agriculture is authorized and directed to collect and/or compile and publish annually, and at such other times, and in such form and on such date or dates as he shall prescribe, statistics and essential information relating to spirits of turpentine and rosin produced, held, and used in the domestic and foreign commerce of the United States. (Aug. 15, 1935, c. 548, 49 Stat. 653.)

§ 558a. Schedule of expenditures in annual Budget.

Repeated, Act May 17, 1935, c. 131, Title I, § 1, 49 Stat. 249

## Chapter 10.—DEPARTMENT OF COMMERCE

§ 593. Chief clerk and superintendent.

Repeated, Act Mar. 22, 1935, c. 39 § 1, 49 Stat. 86

§ 601b. Special statistical studies on request. The Department of Commerce is authorized, within the discretion of the Secretary of Commerce, upon the written request of any person, firm, or corporation, to make special statistical studies relating to foreign trade, domestic trade, and other economic matters falling within the province of the Department of Commerce; to prepare from its records special statistical compilations; and to furnish transcripts of its studies, tables, and other records, upon the payment of the actual cost of such work by the person, firm, or corporation requesting it. (May 27, 1935, c. 148, § 1, 49 Stat. 292.)

§ 601c. Same; disposition of moneys received. All moneys received after May 27, 1935 by the Department of Commerce in payment of the cost of such work shall be deposited in a special account to be administered under the direction of the Secretary of Commerce. These moneys may be used, in the discretion of the Secretary of Commerce, and notwithstanding any other provision of law, for the ordinary expenses incidental to the work and/or to secure in connection therewith the special services of persons who are neither officers nor employees of the United States. (May 27, 1935, c. 148, § 2, 49 Stat. 293.)

§ 601d. Same; rules and regulations; annual reports to Congress. The Secretary of Commerce shall prescribe rules and regulations for the enforcement of this section and sections 601b and 601c of this title; and the Secretary of Commerce shall make a report to Congress, at the beginning of each regular session, giving a detailed statement showing (1) the name of every person, firm, or corporation for whom work has been performed under the authority of this section and sections 601b and 601c of this title; (2) the

nature of the services rendered to him, (3) the price charged for these services by the Department of Commerce; and (4) the manner in which the moneys received were deposited or used. (May 27, 1935, c. 148, § 3. 49 Stat. 293.)

## Chapter 12.—CIVIL SERVICE COMMISSION AND CLASSIFIED CIVIL SERVICE

### § 636. Detail of employees.

Repeated, Act Feb. 2, 1935, c. 3, § 1. 49 Stat. 8

§ 652a. Duties of Commission as to Official Register. The United States Civil Service Commission shall cause to be compiled, edited, indexed, and published each year an Official Register of the United States, which shall contain a full and complete list of all persons occupying administrative and supervisory positions in the legislative, executive, and judicial branches of the Government, including the District of Columbia, in connection with which salaries are paid from the Treasury of the United States. The register shall show the name; official title; salary, compensation, and emoluments; legal residence and place of employment for each person listed therein: *Provided, however,* That the Official Register shall not contain the name of any postmaster or assistant postmaster, or any officer of the Army, Navy, and Marine Corps, unless such officer is assigned as an administrative officer. To enable the United States Civil Service Commission to compile and publish the Official Register of the United States as early as practicable after the first of June of each year, the Executive Office, the legislative and judicial branches of the Government, the Commissioners of the District of Columbia, and the head of each executive department, independent office, establishment, and commission of the Government shall, as of the 1st day of May of each year, beginning with May 1, 1936, supply to the United States Civil Service Commission the data required by this section, upon forms approved and furnished by the Commission, in due time to permit the publication of the Official Register as herein provided; and no extra compensation shall be allowed to any officer, clerk, or employee of the United States Civil Service Commission for compiling the Official Register. (Aug. 28, 1935, c. 795, §§ 1, 2. 49 Stat. 956.)

## Chapter 13.—CLASSIFICATION OF CIVILIAN POSITIONS

§ 673. Compensation schedules enumerated. Professional and scientific service. Subprofessional service.

\* \* \* \* \*

The annual rate of compensation for positions in this grade shall be \$1,080, \$1,140, \$1,200, \$1,260, \$1,320, and \$1,380: *Provided,* That charwomen working part time be paid at the rate of 50 cents an hour and head charwomen at the rate of 55 cents an hour. Charwomen and head charwomen shall receive for each holiday (except Sunday) upon which under existing law no work is performed by them an amount

equal to the amount they would receive had they performed the same number of hours of work on such holiday as the average number of hours of work performed by them during the days in the week in which such holiday occurs. (As amended Aug. 23, 1935, c. 617, 49 Stat. 724.)

Act Aug. 23, 1935, c. 617, cited to the text, added the last sentence to fifth paragraph under "Custodial Service." The word "in" should be inserted after the word "retain" in line 6 of the text to the last paragraph of this section in the Code.

Additional provisions relating to temporary reductions in pay and allowances, etc. Act Feb. 13, 1935, c. 6, 49 Stat. 24, provided as follows:

"Sec. 2. (a) Section 3 (b) of title II of the Act entitled 'An Act to maintain the credit of the United States Government,' approved March 20, 1933, as amended, is amended by striking out 'shall not exceed 5 per centum during the fiscal year ending June 30, 1935', and inserting in lieu thereof 'shall not, during the portion of the fiscal year 1935 prior to April 1, 1935, exceed 5 per centum, and after March 31, 1935, there shall be no such reduction'.

"(b) Subsections (b) and (c) of section 21 of the Independent Offices Appropriation Act, 1935, are amended by striking out 'the fiscal year ending June 30, 1935', wherever such phrase appears, and inserting in lieu thereof 'that portion of the fiscal year ending June 30, 1935, prior to April 1, 1935,' except that this amendatory provision shall not apply to section 107 (a) (1), (2), (3), and (4) of part II of the Legislative Appropriation Act, fiscal year 1935 (relating to certain special salary reductions).

"(c) Nothing in this resolution shall be construed as permitting any reduction in rates of compensation in effect at the time of the passage of this resolution.

"(d) There is hereby appropriated so much as may be necessary for the payment of sums due and payable out of the Treasury of the United States, by reason of the discontinuance of the reduction of compensation provided for in this resolution, and limitations on amounts for personal services are hereby respectively increased in proportion to the increase in appropriations for personal services made in this subsection. In the case of officers and employees of the municipal government of the District of Columbia, such sums shall be paid out of the revenues of the District of Columbia and the Treasury of the United States in the manner prescribed by the District of Columbia Appropriation Act for the fiscal year 1935."

## Chapter 14.—RETIREMENT OF CIVIL SERVICE EMPLOYEES

### § 693. Employees included.

"July 30" in citation should be "July 3"

§ 715c. Continuance in service for less than thirty-one days after reaching retirement age; date of beginning of annuity. All officers and employees of the United States Government or of the government of the District of Columbia who had reached the retirement age prescribed for automatic separation from the service on or before July 1, 1932, or during the month of July 1932, and who were continued in active service for a period of less than thirty-one days after June 30, 1932, shall be regarded as having been retired and entitled to annuity beginning with the day following the date of separation from active service, instead of August 1, 1932, and the United States Civil Service Commission is hereby authorized and directed to make payments accordingly from the civil-service retirement and disability fund to those persons entitled and who make application therefor. (Aug. 28, 1935, c. 791, 49 Stat. 941.)

§ 727. Record by Commission of appointments, transfers, changes in grade, etc.

"c. 683" in next to last line should be "c. 863."



## TITLE 6.—OFFICIAL AND PENAL BONDS

§ 15. Bonds or notes of United States in lieu of recognizance, stipulation, bond, guaranty, or undertaking; place of deposit; return to depositor; contractors' bonds. \* \* \* means the Secretary of the Treasury. In order to avoid the frequent substitution of securities such rules and regulations may limit the effect of this section, in appropriate classes of cases, to bonds and notes of the United States maturing more than a year after the date of deposit of

such bonds as security. The phrase "bonds or notes of the United States" shall be deemed, for the purposes of this section, to mean any public-debt obligations of the United States and any bonds, notes, or other obligations which are unconditionally guaranteed as to both interest and principal by the United States. (As amended Feb. 4, 1935, c. 5, § 7, 49 Stat. 22.)



## TITLE 7.—AGRICULTURE

### Chapter 9.—PACKERS AND STOCKYARDS

#### PACKERS GENERALLY

##### § 192. Unlawful practices enumerated.

This section was amended by section 503 of the Act of Aug. 15, 1921, c. 64, as added by the Act Aug. 14, 1935, c. 532, § 1, 49 Stat. 649, by the addition of the words "or any live poultry dealer or handler" after the word "packer" wherever it occurs in this section.

#### STOCKYARDS AND STOCKYARD DEALERS

##### § 204. Bond and suspension of registrants.

Repeated, Act May 17, 1935, c. 131, Title I, § 1, 49 Stat. 257.

#### LIVE POULTRY DEALERS AND HANDLERS

§ 218. Unfair, deceptive, and fraudulent practices; necessity to curb. The handling of the great volume of live poultry required as an article of food for the inhabitants of large centers of population is attendant with various unfair, deceptive, and fraudulent practices and devices, resulting in the producers sustaining sundry losses and receiving prices far below the reasonable value of their live poultry in comparison with prices of other commodities and in unduly and arbitrarily enhancing the cost to the consumers. Such practices and devices are an undue restraint and unjust burden upon interstate commerce and are a matter of such grave concern to the industry and to the public as to make it imperative that steps be taken to free such commerce from such burden and restraint and to protect producers and consumers against such practices and devices. (Aug. 15, 1921, c. 64, § 501, as added Aug. 14, 1935, c. 532, § 1, 49 Stat. 648.)

§ 218a. Designation of cities and markets where unfair practices exist; licenses required; application for and issuance by Secretary of Agriculture; penalty for dealing without license. (a) The Secretary of Agriculture is authorized and directed to ascertain from time to time and to designate the cities where such practices and devices exist to the extent stated in section 218 and the markets and places in or near such cities where live poultry is received, sold, and handled in sufficient quantity to constitute an important influence on the supply and price of live poultry and poultry products. On and after the effective date of such designation, which shall be publicly announced by the Secretary by publication in one or more trade journals or in the daily press or in such other manner as he may determine to be adequate for the purpose approximately thirty days prior to such date, no person other than packers as defined in section 191 of this title and railroads shall engage in, furnish, or conduct any service or facility in any such designated city, place, or market in connection with the receiving, buying, or selling, on a commission basis or otherwise, marketing, feeding, watering, holding, delivering, shipping, weighing, unloading, loading on trucks, trucking, or handling in commerce of live poultry without a license from the Secretary of Agriculture as herein authorized valid and effective at such time. Any person who violates any provision of this subsection shall be subject to a fine of not more than \$500 or imprisonment of not more than six months, or both.

(b) Any person desiring a license shall make application to the Secretary, who may by regulation prescribe the information to be contained in such ap-

plication. The Secretary shall issue a license to any applicant furnishing the required information unless he finds after opportunity for a hearing that such applicant is unfit to engage in the activity for which he has made application by reason of his having at any time within two years prior to his application engaged in any practice of the character prohibited by this Act or because he is financially unable to fulfill the obligations that he would incur as a licensee. (Aug. 15, 1921, c. 64, § 502, as added Aug. 14, 1935, c. 532, § 1, 49 Stat. 648.)

§ 218b. "Live poultry dealer" defined. The term "live poultry dealer" means any person engaged in the business of buying or selling live poultry in commerce for purposes of slaughter either on his own account or as the employee or agent of the vendor or purchaser. (Aug. 15, 1921, c. 64, § 503, as added Aug. 14, 1935, c. 532, § 1, 49 Stat. 649.)

§ 218c. Application of other provisions of chapter to this subchapter. The provisions of sections 206 to 217, both inclusive, 221, 222, 223 and 224 of this title shall be applicable to licensees with respect to services and facilities covered by this subchapter and the rates, charges, and rentals therefor except that the schedules of rates, charges, and rentals shall be posted in the place of business of the licensee as prescribed in regulations made by the Secretary. (Aug. 15, 1921, c. 64, § 504, as added Aug. 14, 1935, c. 532, § 1, 49 Stat. 649.)

§ 218d. Suspension and revocation of licenses. Whenever the Secretary determines, after opportunity for a hearing, that any licensee has violated or is violating any of the provisions of this subchapter, he may publish the facts and circumstances of such violation and by order suspend the license of such offender for a period not to exceed ninety days and if the violation is flagrant or repeated he may by order revoke the license of the offender. (Aug. 15, 1921, c. 64, § 505, as added Aug. 14, 1935, c. 532, § 1, 49 Stat. 649.)

#### COMMON PROVISIONS

##### § 221. Accounts and records of business; punishment for failure to keep.

This section was amended by section 503 of the Act of Aug. 15, 1921, c. 64, as added by the Act Aug. 14, 1935, c. 532, § 1, 49 Stat. 649, by the addition of the words "or any live poultry dealer or handler" after the word "packer" wherever it occurs in this section.

##### § 223. Responsibility of principal for act or omission of agent.

This section was amended by section 503 of the Act of Aug. 15, 1921, c. 64, as added by the Act Aug. 14, 1935, c. 532, § 1, 49 Stat. 649, by the addition of the words "or any live poultry dealer or handler" after the word "packer" wherever it occurs in this section.

#### CHARGE FOR INSPECTION

##### § 231. Fee for inspection of brands appearing upon livestock.

Repeated, Act May 17, 1935, c. 131, Title I, § 1, 49 Stat. 257.

### Chapter 13.—AGRICULTURAL AND MECHANICAL COLLEGES

#### AGRICULTURAL EXTENSION-WORK APPROPRIATION

§ 343c. Further additional appropriation for extension work. In order to further develop the coop-

erative extension system as inaugurated under sections 341 to 348 of this title, there is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, for the purpose of paying the expenses of cooperative extension work in agriculture and home economics and the necessary printing and distribution of information in connection with the same, the sum of \$8,000,000 for the fiscal year beginning after June 29, 1935, and for the fiscal year following the first fiscal year for which an appropriation is made in pursuance of the foregoing authorization the additional sum of \$1,000,000, and for each succeeding fiscal year thereafter an additional sum of \$1,000,000 until the total appropriations authorized by this section shall amount to \$12,000,000 annually, the authorization to continue in that amount for each succeeding fiscal year. The sums appropriated in pursuance of this section shall be paid to the several States and the Territory of Hawaii in the same manner and subject to the same conditions and limitations as the additional sums appropriated under section 343 of this title, except that (1) \$980,000 shall be paid to the several States and the Territory of Hawaii in equal shares; (2) the remainder shall be paid to the several States and the Territory of Hawaii in the proportion that the farm population<sup>1</sup> of each bears to the total farm population of the several States and the Territory of Hawaii, as determined by the last preceding decennial census, and (3) the several States and the Territory of Hawaii shall not be required to offset the allotments authorized in this section. The sums appropriated pursuant to this section shall be in addition to, and not in substitution for, sums appropriated under such section 343, or sums otherwise appropriated for agricultural extension work. Allotments to any State or the Territory of Hawaii for any fiscal year from the appropriations herein authorized shall be available for payment to such State or the Territory of Hawaii only if such State or the Territory of Hawaii complies, for such fiscal year, with the provisions with reference to offset of appropriations (other than appropriations under this section) for agricultural extension work. (June 29, 1935, c. 338, § 21, 49 Stat. 438.)

**§ 343d. Additional appropriation for agricultural colleges.** In order to provide for the more complete endowment and support of the colleges in the several States and the Territory of Hawaii entitled to the benefits of sections 301 to 328 of this title, there are authorized to be appropriated annually, out of any money in the Treasury not otherwise appropriated, the following amounts:

(a) For the fiscal year beginning after June 29, 1935, and for each fiscal year thereafter, \$980,000; and

(b) For the fiscal year following the first fiscal year for which an appropriation is made in pursuance of paragraph (a) \$500,000, and for each of the two fiscal years thereafter \$500,000 more than the amount authorized to be appropriated for the preceding fiscal year, and for each fiscal year thereafter \$1,500,000. The sums appropriated in pursuance of paragraph (a) shall be paid annually to the several States and the Territory of Hawaii in equal shares. The sums appropriated in pursuance of paragraph (b) shall be in addition to sums appropriated in pursuance of paragraph (a) and shall be allotted and paid annually to each of the several States and the Territory of Hawaii in the proportion which the total population of each such State and the Territory of Hawaii bears to the total population of all the States and the Territory of Hawaii, as determined by the last preceding decennial census. Sums appropriated in pursuance of this section shall be in addition to sums appropriated or authorized under sections 301 to 328 of this title, and shall be applied only for the purposes of the colleges defined in such sections. The provisions of law applicable

to the use and payment of sums under sections 321 to 328 of this title, shall apply to the use and payment of sums appropriated in pursuance of this section. (June 29, 1935, c. 338, § 22, 49 Stat. 439.)

## Chapter 14.—AGRICULTURAL EXPERIMENT STATIONS

**§ 363. General scope of researches and experiments.**

Research into basic laws and principles relating to agriculture, see section 427a of this title.

**§ 367. Secretary to prescribe form of financial report by stations and to co-ordinate departmental work with that of stations.**

Repeated, Act May 17, 1935, c. 131, Title I, § 1, 49 Stat. 251.

## EXPERIMENT STATIONS FOR PROPAGATION OF TREES, SHRUBS, VINES, AND VEGETABLES

**§ 388a. Annual appropriations.**

"§ 1" in citation should be "§ 3."

## Chapter 17.—MISCELLANEOUS MATTERS

**§ 414. Certification of condition, etc., of agricultural products shipped in interstate commerce; certificate as evidence.**

Repeated, Act May 17, 1935, c. 131, Title I, § 1, 49 Stat. 275.

**§ 415a. Wool and mohair; sale of practical forms of grades.**

Repeated, Act May 17, 1935, c. 131, Title I, § 1, 49 Stat. 275.

**§ 419. Sale by Secretary of Agriculture of products of agricultural experiment stations in Alaska and insular possessions; disposition of moneys.**

Repeated, Act May 17, 1935, c. 131, Title I, § 1, 49 Stat. 251.

**§ 427. Agricultural research; duties of Secretary of Agriculture.** The Secretary of Agriculture is authorized and directed to conduct research into laws and principles underlying basic problems of agriculture in its broadest aspects; research relating to the improvement of the quality of, and the development of new and improved methods of production of, distribution of, and new and extended uses and markets for, agricultural commodities and byproducts and manufactures thereof; and research relating to the conservation, development, and use of land and water resources for agricultural purposes. Research authorized under this section shall be in addition to research provided for under existing law (but both activities shall be coordinated so far as practicable) and shall be conducted by such agencies of the Department of Agriculture as the Secretary may designate or establish (June 29, 1935, c. 338, § 1, 49 Stat. 436.)

**§ 427a. Same; research by experiment stations.** The Secretary is also authorized and directed to encourage research similar to that authorized under section 427 to be conducted by agricultural experiment stations established or which may hereafter be established in pursuance of 362 of this title, by the allotment and payment as provided in section 427d of this title to Puerto Rico and the States and Territories for the use of such experiment stations of sums appropriated therefor pursuant to this title. (June 29, 1935, c. 338, § 2, 49 Stat. 437.)

**§ 427b. Same; appropriation.** For the purposes of sections 427 to 427g of this title there is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$1,000,000 for the fiscal year beginning after June 29, 1935, and for each of the four fiscal years thereafter \$1,000,000 more than the amount authorized for the preceding fiscal year, and \$5,000,000 for each fiscal year there-

<sup>1</sup> So in original.



after Moneys appropriated in pursuance of sections 427 to 427g of this title shall also be available for the purchase and rental of land and the construction of buildings necessary for conducting research provided for in this title, for the equipment and maintenance of such buildings, and for printing and disseminating the results of research. Sums appropriated in pursuance of sections 427 to 427g of this title shall be in addition to, and not in substitution for, appropriations for research or other activities of the Department of Agriculture and sums appropriated or otherwise made available for agricultural experiment stations (June 29, 1935, c. 338, § 3, 49 Stat. 437.)

§ 427c. Same; allocation of appropriation for purposes of section 427; "Special research fund, Department of Agriculture." Forty per centum of the sums appropriated for any fiscal year under section 427b shall be available for the purposes of section 427: *Provided*, That not to exceed 2 per centum of the sums appropriated may be used for the administration of section 427d of this title. The sums available for the purposes of section 427 shall be designated as the "Special research fund, Department of Agriculture", and no part of such special fund shall be used for the prosecution of research heretofore instituted or for the prosecution of any new research project except upon approval in writing by the Secretary. One-half of such special research fund shall be used by the Secretary for the establishment and maintenance of research laboratories and facilities in the major agricultural regions at places selected by him and for the prosecution, in accordance with section 427, of research at such laboratories. (June 29, 1935, c. 338, § 4, 49 Stat. 437.)

§ 427d. Same; allocation of appropriation for purposes of section 427a. (a) Sixty per centum of the sums appropriated for any fiscal year under section 427b shall be available for the purposes of section 427a. The Secretary shall allot, for each fiscal year for which an appropriation is made, to Puerto Rico and each State and Territory an amount which bears the same ratio to the total amount to be allotted as the rural population of Puerto Rico or the State or Territory bears to the rural population of Puerto Rico and all the States and Territories as determined by the last preceding decennial census. No allotment and no payment under any allotment shall be made for any fiscal year in excess of the amount which Puerto Rico or the State or Territory makes available for such fiscal year out of its own funds for research and for the establishment and maintenance of necessary facilities for the prosecution of such research. If Puerto Rico or any State or Territory fails to make available for such purposes for any fiscal year a sum equal to the total amount to which it may be entitled for such year, the remainder of such amount shall be withheld by the Secretary. The total amount so withheld may be allotted by the Secretary of Agriculture to Puerto Rico and the States and Territories which make available for such year an amount equal to that part of the total amount withheld which may be allotted to them by the Secretary of Agriculture, but no such additional allotment to Puerto Rico or any State or Territory shall exceed the original allotment to Puerto Rico or such State or Territory for that year by more than 20 per centum thereof.

(b) The sums authorized to be allotted to Puerto Rico and the States and Territories shall be paid annually in quarterly payments on July 1, October 1, January 1, and April 1. Such sums shall be paid by the Secretary of the Treasury upon warrant of the Secretary of Agriculture in the same manner and subject to the same administrative procedure set forth in chapter 14 of this title. (June 29, 1935, c. 338, § 5, 49 Stat. 437.)

§ 427e. Same; "Territory" defined. As used in sections 427 to 427g of this title the term "Territory" means Alaska and Hawaii. (June 29, 1935, c. 338, § 6, 49 Stat. 438.)

§ 427f. Same; rules and regulations. The Secretary of Agriculture is authorized and directed to prescribe such rules and regulations as may be necessary to carry out sections 427 to 427g of this title. (June 29, 1935, c. 338, § 7, 49 Stat. 438.)

§ 427g. Same; right to repeal, amend, etc., reserved. The right to alter, amend, or repeal sections 427 to 427g of this title is expressly reserved. (June 29, 1935, c. 338, § 8, 49 Stat. 438.)

## Chapter 21.—TOBACCO STATISTICS

§ 501. Collection and publication; facts required; deteriorated tobacco. The Secretary of Agriculture is authorized and directed to collect and publish statistics of the quantity of leaf tobacco in all forms in the United States and Puerto Rico, owned by or in the possession of dealers, manufacturers, quasi-manufacturers, growers' cooperative associations, warehousemen, brokers, holders, or owners, other than the original growers of tobacco. The statistics shall show the quantity of tobacco in such detail as to types, groups of grades, and such other subdivisions as to quality, color, and/or grade for particular types, as the Secretary of Agriculture shall deem to be practical and necessary for the purposes of this section and sections 502 to 508 of this title, shall be summarized as of January 1, April 1, July 1, and October 1 of each year, and an annual report on tobacco statistics shall be issued: *Provided*, That the Secretary of Agriculture shall not be required to collect statistics of leaf tobacco from any manufacturer of tobacco who, in the first three quarters of the preceding calendar year, according to the returns of the Commissioner of Internal Revenue or the record of the Treasurer of Puerto Rico, manufactured less than thirty-five thousand pounds of tobacco, or from any manufacturer of cigars who, during the first three quarters of the preceding calendar year, manufactured less than one hundred and eighty-five thousand cigars, or from any manufacturer of cigarettes who, during the first three quarters of the preceding year, manufactured less than seven hundred and fifty thousand cigarettes: *And provided further*, That the Secretary of Agriculture may omit the collection of statistics from any dealer, manufacturer, growers' cooperative association, warehouseman, broker, holder, or owner who does not own and/or have in stock, in the aggregate, fifty thousand pounds or more of leaf tobacco on the date as of which the reports are made. For the purposes of this section and sections 502 to 508 of this title, any tobacco which has deteriorated on account of age or other causes to the extent that it is not merchantable or is unsuitable for use in manufacturing tobacco products shall be classified with other nondescript tobacco and reported in the "N" group of the type to which it belongs. (As amended Aug. 27, 1935, c. 749, § 1, 49 Stat. 893.)

Section 4 of Act Aug. 27, 1935, c. 749, cited to the text, provided as follows: "If any provision of this Act, or the application of such provision to any person or circumstances, is held invalid, the remainder of the Act and the application of such provisions to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby"

§ 502. Standards for classification; returns and blanks. The Secretary of Agriculture shall establish standards for the classification of leaf tobacco, and he is authorized to demonstrate such standards, to prepare and distribute samples thereof, and to make reasonable charges therefor. He shall specify the types, groups of grades, qualities, colors, and/or grades, which shall be included in the returns required by sections 501 and 503 of this title. The Secretary of Agriculture shall prepare appropriate blanks upon which the returns shall be made, shall, upon request, furnish copies to persons who are required by section 503 to make returns, and such returns shall show the types, groups of grades, qualities, colors, and/or grades and such other information as the

Secretary may require. (As amended Aug. 27, 1935, c 749, § 2, 49 Stat. 894.)

Section 4 of Act Aug. 27, 1935, c 749, cited to the text, provided as follows: "If any provision of this Act, or the application of such provision to any person or circumstances, is held invalid, the remainder of the Act and the application of such provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby."

#### § 505. Access to Internal Revenue records.

This section, by a purported amendment, was reenacted without change by Act Aug. 27, 1935, c 749, § 3, 49 Stat. 894

### Chapter 21A.—TOBACCO INSPECTION ACT

#### Sec.

##### 511. Definitions

##### 511a. Purpose of chapter.

##### 511b. Official standards for classification; tentative standards; modification

##### 511c. Same; demonstration; samples; cost.

##### 511d. Designation of markets; manner

##### 511e. Sampling and weighing, cost, disposition of monies received, expenses; purpose of section

##### 511f. Reinspection and appeal inspection, certificate as evidence

##### 511g. Placing of grade on warehouse tickets, etc., form.

##### 511h. Publication of information relating to tobacco.

##### 511i. Offenses

##### 511j. Same, publication of facts.

##### 511k. Same, penalty.

##### 511l. Act of agent as that of principal

##### 511m. Regulation; hearings; employees, expenditures; appropriation

##### 511n. Hearings; examination of witnesses; refusal to testify or produce evidence.

##### 511o. Separability clause

##### 511p. Execution of duties of Secretary of Agriculture by designated agents

##### 511q. Citation

#### § 511. Definitions. When used in this chapter—

(a) "Person" includes partnerships, associations, and corporations, as well as individuals.

(b) "Secretary" means the Secretary of Agriculture of the United States

(c) "Inspector" means any person employed, licensed, or authorized by the Secretary to determine and certify the type, grade, condition, or other characteristics of tobacco.

(d) "Sampler" means any person employed, licensed, or authorized by the Secretary to select, tag, and seal official samples of tobacco

(e) "Weigher" means any person employed, licensed, or authorized by the Secretary to weigh and certify the weight of tobacco.

(f) "Tobacco" means tobacco in its unmanufactured form.

(g) "Auction market" means a market or place to which tobacco is delivered by the producers thereof, or their agents, for sale at auction through a warehouseman or commission merchant.

(h) Words in the singular form shall be deemed to import the plural form when necessary.

(i) "Commerce" means commerce between any State, Territory, or possession, or the District of Columbia, and any place outside thereof; or between points within the same State, Territory, or possession, or the District of Columbia, but through any place outside thereof; or within any Territory or possession, or the District of Columbia. For the purposes of this chapter (but not in any wise limiting the foregoing definition) a transaction in respect to tobacco shall be considered to be in commerce if such tobacco is part of that current of commerce usual in the tobacco industry whereby tobacco or products manufactured therefrom are sent from one State with the expectation that they will end their transit, after purchase, in another, including, in addition to cases within the above general description, all cases where purchase or sale is either for shipment to another State or for manufacture within the State and the shipment outside the State of the products resulting from such manufacture. Tobacco normally in such current of commerce shall not be considered out of such current through resort being had to any means or device intended to remove transactions in respect thereto from the provisions of this chapter. For the

purpose of this paragraph the word "State" includes Territory, the District of Columbia, possession of the United States, and foreign nations. (Aug. 23, 1935, c. 623, § 1, 49 Stat. 731.)

§ 511a. Purpose of chapter. Transactions in tobacco involving the sale thereof at auction as commonly conducted at auction markets are affected with a public interest; that such transactions are carried on by tobacco producers generally and by persons engaged in the business of buying and selling tobacco in commerce; that the classification of tobacco according to type, grade, and other characteristics affects the prices received therefor by producers; that without uniform standards of classification and inspection the evaluation of tobacco is susceptible to speculation, manipulation, and control, and unreasonable fluctuations in prices and quality determinations occur which are detrimental to producers and persons handling tobacco in commerce; that such fluctuations constitute a burden upon commerce and make the use of uniform standards of classification and inspection imperative for the protection of producers and others engaged in commerce and the public interest therein. (Aug. 23, 1935, c. 623, § 2, 49 Stat. 731.)

§ 511b. Official standards for classification; tentative standards; modification. The Secretary is authorized to investigate the sorting, handling, conditioning, inspection, and marketing of tobacco from time to time, and to establish standards for tobacco by which its type, grade, size, condition, or other characteristics may be determined, which standards shall be the official standards of the United States, and shall become effective immediately or upon a date specified by the Secretary: *Provided*, That the Secretary may issue tentative standards for tobacco prior to the establishment of official standards therefor, and he may modify any standards established under authority of this chapter whenever, in his judgment, such action is advisable. (Aug. 23, 1935, c. 623, § 3, 49 Stat. 732.)

§ 511c. Same; demonstration; samples; cost. The Secretary is authorized to demonstrate the official standards; to prepare and distribute, upon request, samples, illustrations, or sets thereof; and to make reasonable charges therefor: *Provided*, That in no event shall charges be in excess of the cost of said samples, illustrations, and services so rendered. (Aug. 23, 1935, c. 623, § 4, 49 Stat. 732.)

§ 511d. Designation of markets; manner. The Secretary is authorized to designate those auction markets where tobacco bought and sold thereon at auction, or the products customarily manufactured therefrom, moves in commerce. Before any market is designated by the Secretary under this section he shall determine by referendum the desire of tobacco growers who sold tobacco at auction on such market during the preceding marketing season. The Secretary may at his discretion hold one referendum for two or more markets or for all markets in a type area. No market or group of markets shall be designated by the Secretary unless two-thirds of the growers voting favor it. The Secretary shall have access to the tobacco records of the Collector of Internal Revenue and of the several collectors of internal revenue for the purpose of obtaining the names and addresses of growers who sold tobacco on any auction market, and the Secretary shall determine from said records the eligibility of such grower to vote in such referendum, and no grower shall be eligible to vote in more than one referendum. After public notice of not less than thirty days that any auction market has been so designated by the Secretary, no tobacco shall be offered for sale at auction on such market until it shall have been inspected and certified by an authorized representative of the Secretary according to the standards established under this chapter, except that the Secretary may temporarily suspend the requirement of inspection and certification at any designated market whenever he finds it impracticable to provide for such

inspection and certification because competent inspectors are not obtainable or because the quantity of tobacco available for inspection is insufficient to justify the cost of such service: *Provided*, That, in the event competent inspectors are not available, or for other reasons, the Secretary is unable to provide for such inspection and certification at all auction markets within a type area, he shall first designate those auction markets where the greatest number of growers may be served with the facilities available to him. No fee or charge shall be imposed or collected for inspection or certification under this section at any designated auction market. Nothing contained in this chapter shall be construed to prevent transactions in tobacco at markets not designated by the Secretary or at designated markets where the Secretary has suspended the requirement of inspection or to authorize the Secretary to close any market (Aug. 23, 1935, c. 623, § 5, 49 Stat. 732.)

**§ 511e. Sampling and weighing; cost; disposition of moneys received; expenses; purpose of section.** The Secretary, independently or in cooperation with other branches of the Government, State agencies, or persons, whether operating in one or more jurisdictions, is authorized to employ and/or license competent persons as samplers to take official samples of tobacco, or as weighers to weigh and certify the weight of tobacco, or as inspectors of tobacco to determine and certify, upon the request of the owner or other financially interested person, the type, grade, weight, condition, and/or such other facts as the Secretary may deem necessary.

The Secretary is authorized to fix and collect such fees or charges in the administration of this section as he may deem reasonable, and the moneys collected, except as provided in this section, shall be deposited in the Treasury of the United States to the credit of miscellaneous receipts. Fees or charges collected under an agreement with a State, municipality, or person, or by an individual licensed to inspect or weigh or sample tobacco under this chapter, may be disposed of in accordance with the terms of such agreement or license. Charges for expenses for travel and subsistence incurred by inspectors or weighers or samplers employed by the Secretary when required to be paid by the applicant for service, may be credited to the appropriation, or any other funds authorized in this chapter from which they were paid.

This section is intended merely to provide for the furnishing of services upon request of the owner or other person financially interested in tobacco to be sampled, inspected, or weighed and shall not be construed otherwise. (Aug. 23, 1935, c. 623, § 6, 49 Stat. 732.)

**§ 511f. Reinspection and appeal inspection; certificate as evidence.** The Secretary shall provide for such reinspection or appeal inspection of tobacco as he may deem necessary for the confirmation or reversal of certificates issued under this chapter. Each inspection certificate issued under this chapter, unless invalidated or superseded in accordance with the regulations of the Secretary, shall be received in all courts and by all officers and employees of the United States as prima facie evidence of the truth of the statements therein contained. (Aug. 23, 1935, c. 623, § 7, 49 Stat. 733.)

**§ 511g. Placing of grade on warehouse tickets, etc.; form.** Warehousemen shall provide space on warehouse tickets or other tags or labels used by them for showing the grade of the lot covered thereby as determined by an authorized tobacco inspector under this chapter. The Secretary may prescribe, by regulation, the form in which such certification of grade shall be shown, and may require that a copy of such warehouse ticket, tag, or label shall be furnished to the Secretary (Aug. 23, 1935, c. 623, § 8, 49 Stat. 733.)

**§ 511h. Publication of information relating to tobacco.** The Secretary is authorized to collect, pub-

lish, and distribute, by telegraph, mail, or otherwise without cost to the grower, timely information on the market supply and demand, location, disposition, quality, condition, and market prices for tobacco. (Aug. 23, 1935, c. 623, § 9, 49 Stat. 733.)

**§ 511i. Offenses.** It shall be unlawful—

(a) For any person to use the words "United States", "Government", or "Federal", or any abbreviation thereof, in, or in connection with, any statement relating to the grade of tobacco when such grade is not, in fact, one of the grades for tobacco according to the standards of the United States.

(b) For any person falsely to make, issue, alter, forge, or counterfeit, or aid, cause, procure, or assist in or be a party to the false making, issuing, altering, forging, or counterfeiting of any certificate, stamp, tag, seal, label, or other writing purporting to be issued or authorized under this chapter.

(c) For any person, not an authorized inspector under this chapter, to issue a certificate or report stating the type, grade, size, or condition of any lot of tobacco to be in accordance with the standards of the United States therefor which is of such color, size, arrangement, or wording as to be mistaken for a certificate issued under this chapter, unless such certificate states in prominent letters in its heading that it is not issued under authority of the United States.

(d) For any person employed, designated, or licensed by the Secretary as an inspector, sampler, or weigher of tobacco under this chapter knowingly to inspect, sample, or weigh improperly, or to issue any false certificate under this chapter, or to accept money or other consideration, directly or indirectly, for any neglect or improper performance of duty as an inspector, sampler or weigher.

(e) For any person improperly to influence or to attempt improperly to influence or forcibly to assault, resist, impede, or interfere with any inspector, sampler, weigher, or other person employed, designated, or licensed by the Secretary in the execution of his duties under this chapter: *Provided, however*, That nothing herein shall operate to prevent the owner of tobacco from appealing or protesting, in accordance with regulations of the Secretary, the grade certified for his tobacco.

(f) For any person falsely to represent or otherwise indicate that he is authorized by the Secretary to inspect, sample, or weigh tobacco under this chapter.

(g) For any person to substitute, or attempt to substitute, following inspection or sampling or weighing under this chapter, other tobacco for tobacco actually inspected or sampled or weighed, or in the case of tobacco inspected in auction warehouses for any person not so authorized by the Secretary to remove any certificate of grade from any lot of tobacco prior to the sale of such lot.

(h) For any person falsely to represent that tobacco has been inspected, sampled, or weighed under this chapter; or knowingly to have made any false representation concerning tobacco inspected under this chapter; or knowing that tobacco is to be offered for inspection or sampling under this chapter to load, pack, or arrange such tobacco in such manner as knowingly to conceal foreign matter or tobacco of inferior grade, quality, or condition; or for any person knowing that tobacco has been so loaded, packed, or arranged, to offer it for inspection or sampling without disclosing such knowledge to the inspector or sampler before inspection or sampling.

(i) For any person willfully to alter an official sample of tobacco by removing or plucking leaves or otherwise, or for any person knowing that an official sample of tobacco has been so altered, thereafter to represent such sample as an official sample (Aug. 23, 1935, c. 623, § 10, 49 Stat. 733.)

**§ 511j. Same; publication of facts.** The Secretary is authorized to publish the facts regarding any violation of this chapter. (Aug. 23, 1935, c. 623, § 11, 49 Stat. 734.)

**§ 511k. Same; penalty.** Any person violating any provision of sections 511d and 511i of this title shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$1,000, or imprisoned not more than one year, or both. (Aug. 23, 1935, c. 623, § 12, 49 Stat. 734.)

**§ 511l. Act of agent as that of principal.** In construing and enforcing the provisions of this chapter; [sic] the act; [sic] omission, or failure of any agent, officer, or other person acting for or employed by an association, partnership, corporation, or firm, within the scope of his employment or office, shall be deemed to be the act, omission or failure of the association, partnership, corporation, or firm, as well as that of the person. (Aug. 23, 1935, c. 623, § 13, 49 Stat. 734.)

**§ 511m. Regulation; hearings; employees; expenditures; appropriation.** The Secretary is authorized to make such rules and regulations and hold such hearings as he may deem necessary to effectuate the purposes of this chapter and may cooperate with any other Department or agency of the Government; any State, territory, district, or possession, or department, agency, or political subdivision thereof; purchasing and consuming organizations, boards of trade, chambers of commerce, or other associations of business men or trade organizations; or any person, whether operating in one or more jurisdictions in carrying on the work herein authorized; and he shall have the power to appoint, suspend, remove, and fix the compensation of all officers, employees, and licensees not in conflict with existing law, except that inspectors and supervisors employed hereunder on a seasonal basis and working for periods of six months or less during any twelve-month period may be appointed without reference to the provisions of sections 661 to 674 of Title 5. The Secretary is authorized to make such expenditures for rent outside of the District of Columbia, printing, binding, telegrams, telephones, books of reference, publications, furniture, stationery, office and laboratory equipment, travel, tobacco for use in preparing and demonstrating standards, and other supplies and expenses, including reporting services, as shall be necessary to the administration of this chapter in the District of Columbia and elsewhere, and as may be appropriated for by Congress; and there is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary for administering this chapter. (Aug. 23, 1935, c. 623, § 14, 49 Stat. 734.)

**§ 511n. Hearings; examination of witnesses; refusal to testify or produce evidence.** In carrying on the work authorized in this chapter, the Secretary, or any officer or employee designated by him for such purpose, shall have power to hold hearings, administer oaths, sign and issue subpoenas, examine witnesses, and require the production of books, records, accounts, memoranda, and papers. Upon refusal by any person to appear, testify, or produce books, records, accounts, memoranda, and papers in response to a subpoena, the proper United States district court shall have power to compel obedience thereto. (Aug. 23, 1935, c. 623, § 15, 49 Stat. 735.)

**§ 511o. Separability clause.** If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the chapter and of the application of such provision to other persons and circumstances shall not be affected thereby. (Aug. 23, 1935, c. 623, § 16, 49 Stat. 735.)

**§ 511p. Execution of duties of Secretary of Agriculture by designated agents.** Any duties devolving upon the Secretary of Agriculture by virtue of the provisions of this chapter may with like force and effect be executed by such officer or officers, agent or agents, of the Department of Agriculture as the Secretary may designate for the purpose. (Aug. 23, 1935, c. 623, § 17, 49 Stat. 735.)

**§ 511q. Citation.** This chapter may be cited as "The Tobacco Inspection Act." (Aug. 23, 1935, c. 623, § 18, 49 Stat. 735.)

## Chapter 26.—AGRICULTURAL ADJUSTMENT ACT

### DECLARATION OF EMERGENCY AND POLICY

**§ 602. Declaration of policy; establishment of base periods for prices.** It is hereby declared to be the policy of Congress—

(1) Through the exercise of the powers conferred upon the Secretary of Agriculture under this chapter, to establish and maintain such balance between the production and consumption of agricultural commodities, and such marketing conditions therefor, as will reestablish prices to farmers at a level that will give agricultural commodities a purchasing power with respect to articles that farmers buy, equivalent to the purchasing power of agricultural commodities in the base period. The base period in the case of all agricultural commodities except tobacco and potatoes shall be the prewar period, August 1909–July 1914. In the case of tobacco and potatoes, the base period shall be the postwar period, August 1919–July 1929; and, in the case of all commodities for which the base period is the pre-war period, August 1909 to July 1914, will also reflect current interest payments per acre on farm indebtedness secured by real estate and tax payments per acre on farm real estate, as contrasted with such interest payments and tax payments during the base period.

(2) To protect the interest of the consumer by (a) approaching the level of prices which it is declared to be the policy of Congress to establish in subsection (1) of this section by gradual correction of the current level at as rapid a rate as the Secretary of Agriculture deems to be in the public interest and feasible in view of the current consumptive demand in domestic and foreign markets, and (b) authorizing no action under this title which has for its purpose the maintenance of prices to farmers above the level which it is declared to be the policy of Congress to establish in subsection (1) of this section. (As amended Aug. 24, 1935, c. 641, §§ 1, 62, 49 Stat. 751, 782.)

### COTTON OPTION CONTRACTS

**§ 604. Borrowing money; expenditures of funds; authority of Secretary of Agriculture.**

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(b) The Secretary of the Treasury is authorized to advance, in his discretion, out of any money in the Treasury not otherwise appropriated, the sum of \$100,000,000 to the Secretary of Agriculture, for paying off any debt or debts which may have been or may be incurred by the Secretary of Agriculture and discharging any lien or liens which may have arisen or may arise pursuant to sections 603 to 607 of this title, for protecting title to any cotton which may have been or may be acquired by the Secretary of Agriculture under authority of sections 603 to 607 of this title, and for paying any expenses (including, but not limited to, warehouse charges, insurance, salaries, interest, costs, and commissions) incident to carrying, handling, insuring, and marketing of said cotton and for the purposes described in subsection (e) of this section. This sum shall be available until the cotton acquired by the Secretary of Agriculture under authority of this chapter, including cotton futures, shall have been finally marketed by any agency which may have been or may be established by the Secretary of Agriculture for the handling, carrying, insuring, or marketing of any cotton acquired by the Secretary of Agriculture. (As amended Aug. 24, 1935, c. 641, § 35, 49 Stat. 775.)

\* \* \* \* \*

(f) \* \* \* shall be covered into the Treasury as miscellaneous receipts. The word "obligation" when used in this section shall include (without be-

ing limited to) administrative expenses, warehouse charges, insurance, salaries, interest, costs, commissions, and other expenses incident to handling, carrying, insuring, and marketing of said cotton (As amended Aug. 24, 1935, c. 641, § 36, 49 Stat. 775.)

**§ 606. Option contracts; rights of producers under option; extension of option.** [Repealed.]

This section was repealed by Act Aug. 24, 1935, c. 641, § 34, 49 Stat. 775.

**§ 607. Sale by Secretary; additional options; validation of assignments; publication of information.** The Secretary shall sell cotton held or acquired by him pursuant to authority of this chapter at his discretion subject only to the conditions and limitations of this chapter: *Provided*, That the Secretary shall have authority to enter into option contracts with producers of cotton to sell to or for the producers such cotton held and/or acquired by him in such amounts and at such prices and upon such terms and conditions as he, the Secretary, may deem advisable, and such option contracts may be transferred or assigned in such manner as the Secretary of Agriculture may prescribe.

Notwithstanding any provisions contained in option contracts heretofore issued and/or any provision of law, assignments made prior to January 11, 1934, of option contracts exercised prior to January 18, 1934, shall be deemed valid upon determination by the Secretary that such assignment was an assignment in good faith of the full interest in such contract and for full value and is free from evidence of fraud or speculation by the assignee.

Notwithstanding any provision of existing law, the Secretary of Agriculture may, in the administration of this chapter, make public such information as he deems necessary in order to effectuate the purposes of such chapter. (As amended Aug. 24, 1935, c. 641, § 33, 49 Stat. 775.)

### COMMODITY BENEFITS

**§ 608. General powers of Secretary.**

**(1) Investigations; proclamation of findings.** Whenever the Secretary of Agriculture has reason to believe that:

(a) The current average farm price for any basic agricultural commodity is less than the fair exchange value thereof, or the average farm price of such commodity is likely to be less than the fair exchange value thereof for the period in which the production of such commodity during the current or next succeeding marketing year is normally marketed, and

(b) The conditions of and factors relating to the production, marketing, and consumption of such commodity are such that the exercise of any one or more of the powers conferred upon the Secretary under subsections (2) and (3) of this section would tend to effectuate the declared policy of this chapter, he shall cause an immediate investigation to be made to determine such facts. If, upon the basis of such investigation, the Secretary finds the existence of such facts, he shall proclaim such determination and shall exercise such one or more of the powers conferred upon him under subsections (2) and (3) of this section as he finds, upon the basis of an investigation, administratively practicable and best calculated to effectuate the declared policy of this chapter.

**(2) Agreements for adjustment of acreage or production and for rental or benefit payments.** Subject to the provisions of subsection (1) of this section, the Secretary of Agriculture shall provide, through agreements with producers or by other voluntary methods,

(a) For such adjustment in the acreage or in the production for market, or both, of any basic agricultural commodity, as he finds, upon the basis of

the investigation made pursuant to subsection (1) of this section, will tend to effectuate the declared policy of this chapter, and to make such adjustment program practicable to operate and administer, and

(b) For rental or benefit payments in connection with such agreements or methods in such amounts as he finds, upon the basis of such investigation, to be fair and reasonable and best calculated to effectuate the declared policy of this title and to make such program practicable to operate and administer, to be paid out of any moneys available for such payments or, subject to the consent of the producer, to be made in quantities of one or more basic agricultural commodities acquired by the Secretary pursuant to this chapter.

**(3) Payments by Secretary.** Subject to the provisions of subsection (1) of this section, the Secretary of Agriculture shall make payments, out of any moneys available for such payments, in such amounts as he finds, upon the basis of the investigation made pursuant to subsection (1) of this section, to be fair and reasonable and best calculated to effectuate the declared policy of this chapter:

(a) To remove from the normal channels of trade and commerce quantities of any basic agricultural commodity or product thereof;

(b) To expand domestic or foreign markets for any basic agricultural commodity or product thereof;

(c) In connection with the production of that part of any basic agricultural commodity which is required for domestic consumption.

**(4) Additional investigation; suspension of exercise of powers.** Whenever, during a period during which any of the powers conferred in subsection (2) or (3) is being exercised, the Secretary of Agriculture has reason to believe that, with respect to any basic agricultural commodity:

(a) The current average farm price for such commodity is not less than the fair exchange value thereof, and the average farm price for such commodity is not likely to be less than the fair exchange value thereof for the period in which the production of such commodity during the current or next succeeding marketing year is normally marketed, or

(b) The conditions of and factors relating to the production, marketing, and consumption of such commodity are such that none of the powers conferred in subsections (2) and (3), and no combination of such powers, would, if exercised, tend to effectuate the declared policy of this chapter, he shall cause an immediate investigation to be made to determine such facts. If, upon the basis of such investigation, the Secretary finds the existence of such facts, he shall proclaim such determination, and shall not exercise any of such powers with respect to such commodity after the end of the marketing year current at the time when such proclamation is made and prior to a new proclamation under subsection (1) of this section, except insofar as the exercise of such power is necessary to carry out obligations of the Secretary assumed, prior to the date of such proclamation made pursuant to this subsection, in connection with the exercise of any of the powers conferred upon him under subsections (2) or (3) of this section.

**(5) Hearings; notice.** In the course of any investigation required to be made under subsection (1) or subsection (4) of this section, the Secretary of Agriculture shall hold one or more hearings, and give due notice and opportunity for interested parties to be heard.

**(6) Commodity in which payment made.** No payment under this chapter made in an agricultural commodity acquired by the Secretary in pursuance of this chapter shall be made in a commodity other than that in respect of which the payment is being made. For the purposes of this subsection, hogs and field corn may be considered as one commodity.

**(7) Additional payments to producers of sugar beets or sugarcane.** In the case of sugar beets or

sugarcane, in the event that it shall be established to the satisfaction of the Secretary of Agriculture that returns to growers or producers, under the contracts for the 1933-1934 crop of sugar beets or sugarcane, entered into by and between the processors and producers and/or growers thereof, were reduced by reason of the payment of the processing tax, and/or the corresponding floor stocks tax, on sugar beets or sugarcane, in addition to the foregoing rental or benefit payments, the Secretary of Agriculture shall make such payments, representing in whole or in part such tax, as the Secretary deems fair and reasonable, to producers who agree, or have agreed, to participate in the program for reduction in the acreage or reduction in the production for market, or both, of sugar beets or sugarcane.

(8) **Pledge by rice producer for production credit of right to rental or benefit payments.** In the case of rice, the Secretary of Agriculture, in exercising the power conferred upon him by subsection (2) of this section to provide for rental or benefit payments, is directed to provide in any agreement entered into by him with any rice producer pursuant to such subsection, upon such terms and conditions as the Secretary determines will best effectuate the declared policy of this chapter, that the producer may pledge for production credit in whole or in part his right to any rental or benefit payments under the terms of such agreement and that such producer may designate therein a payee to receive such rental or benefit payments.

(9) **Advances of payments on stored nonperishable commodity.** Under regulations of the Secretary of Agriculture requiring adequate facilities for the storage of any nonperishable agricultural commodity on the farm, inspection and measurement of any such commodity so stored, and the locking and sealing thereof, and such other regulations as may be prescribed by the Secretary of Agriculture for the protection of such commodity and for the marketing thereof, a reasonable percentage of any benefit payment may be advanced on any such commodity so stored. In any such case, such deduction may be made from the amount of the benefit payment as the Secretary of Agriculture determines will reasonably compensate for the cost of inspection and sealing but no deduction may be made for interest. (As amended Mar. 18, 1935, c. 32, § 7, 49 Stat. 46; Aug. 24, 1935, c. 641, § 2, 49 Stat. 751.)

See notes under sections 608b-608d, 608f

The provisions found in subsections 1, 2, 3, 4, and 5 as enacted by the Act of May 12, 1933, cited to the text, were omitted from this section and new provisions incorporated by the Act of Aug. 24, 1935, cited to the text.

Section 38 of the Act Aug. 24, 1935, c. 641, 49 Stat. 776, which amended this chapter generally provided as follows: "Nothing contained in this Act shall (a) invalidate any marketing agreement or license in existence on the date of the enactment hereof, or any provision thereof, or any act done pursuant thereto, either before or after the enactment of this Act, or (b) impair any remedy provided for on the date of the enactment thereof for the enforcement of any such marketing agreement or license, or (c) invalidate any agreement entered into pursuant to section 8 (1) of the Agricultural Adjustment Act prior to the enactment of this Act, or subsequent to the enactment of this Act in connection with a program the initiation of which has been formally approved by the Secretary of Agriculture under such section 8 (1) prior to the enactment of this Act, or any act done or agreed to be done or any payment made or agreed to be made in pursuance of any such agreement, either before or after the enactment of this Act, or any change in the terms and conditions of any such agreement, or any voluntary arrangements or further agreements which the Secretary finds necessary or desirable in order to complete or terminate such program pursuant to the declared policy of the Agricultural Adjustment Act: *Provided*, That the Secretary shall not prescribe, pursuant to any such agreement or voluntary arrangement, any adjustment in the acreage or in the production for market of any basic agricultural commodity to be made after July 1, 1937, except pursuant to the provisions of section 8 of the Agricultural Adjustment Act as amended by this Act."

§ 608a. Sugar quotas—(1) Establishment and regulation of quotas of sugar.

(B) Forbid processors, persons engaged in the handling of sugar, and others from marketing in, or in the current of, or so as directly to burden, obstruct, or affect, interstate or foreign commerce, sugar manufactured from sugar beets and/or sugarcane, produced in the continental United States beet-sugar-producing area, the States of Louisiana and Florida, and any other State or States in excess of the following quotas, for any calendar year, except as provided for in subsection (2) of this section: United States beet-sugar area, one million five hundred and fifty thousand short tons raw value; the States of Louisiana and Florida, except as may be provided under paragraph (C) of this subsection, two hundred and sixty thousand short tons raw value; and the Secretary of Agriculture may, by orders or regulations, allot such quotas and readjust any such allotment, from time to time, among the processors, persons engaged in the handling of sugar, and others; and/or

\* \* \* (As amended Aug. 24, 1935, c. 641, § 8, 49 Stat. 762)

(6) **Jurisdiction of district courts.** The several district courts of the United States are hereby vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, the provisions of this section, or of any order, regulation, or agreement, heretofore or hereafter made or issued pursuant to this chapter, in any proceeding now pending or hereafter brought in said courts. (As amended Aug. 24, 1935, c. 641, § 9, 49 Stat. 762)

(7) **Duties of district attorneys; investigation of violations by Secretary; hearings.** Upon the request of the Secretary of Agriculture, it shall be the duty of the several district attorneys of the United States, in their respective districts, under the directions of the Attorney General, to institute proceedings to enforce the remedies and to collect the forfeitures provided for in, or pursuant to, this chapter. Whenever the Secretary, or such officer or employee of the Department of Agriculture as he may designate for the purpose, has reason to believe that any handler has violated, or is violating, the provisions of any order or amendment thereto issued pursuant to this title, the Secretary shall have power to institute an investigation and, after due notice to such handler, to conduct a hearing in order to determine the facts for the purpose of referring the matter to the Attorney General for appropriate action. (As amended Aug. 24, 1935, c. 641, § 10, 49 Stat. 762.)

Subsection (1) of this section was amended by Act Aug. 24, 1935, c. 641, § 8, cited to the text by making paragraph (B) thereof read as above and by inserting the words "persons engaged in handling" in lieu of the word "handlers" wherever appearing in subsection (1).

§ 608b. **Marketing agreements; exemption from antitrust laws; loans from Reconstruction Finance Corporation.** In order to effectuate the declared policy of this chapter, the Secretary of Agriculture shall have the power, after due notice and opportunity for hearing, to enter into marketing agreements with processors, producers, associations of producers, and others engaged in the handling of any agricultural commodity or product thereof, only with respect to such handling as is in the current of interstate or foreign commerce or which directly burdens, obstructs, or affects, interstate or foreign commerce in such commodity or product thereof. The making of any such agreement shall not be held to be in violation of any of the antitrust laws of the United States, and any such agreement shall be deemed to be lawful: *Provided*, That no such agreement shall remain in force after the termination of this chapter. For the purpose of carrying out any such agreement the parties thereto shall be eligible for loans from the Reconstruction Finance Corporation under section 605 of Title 15. Such loans shall not be in excess of such amounts as may be authorized by the agreements.



(May 12, 1933, c. 25, Title I, § 8b [8(2)], 48 Stat. 34; as amended Apr. 7, 1934, c. 103, § 7, 48 Stat. 528; Aug. 24, 1935, c. 641, § 4, 49 Stat. 753.)

The provisions now appearing in this section, except the first sentence, were originally enacted as part of section 8, subsection 2, of the Act of May 12, 1933, cited to the text, and formerly appeared as section 608(2) of this chapter. The Act of Aug. 24, 1935, cited to the text, designated said subsection 2 as section 8b and changed the first sentence to read as it now appears in the text.

#### § 608c. Orders regulating handling of commodity.

(1) **Issuance by Secretary.** The Secretary of Agriculture shall, subject to the provisions of this section, issue, and from time to time amend, orders applicable to processors, associations of producers, and others engaged in the handling of any agricultural commodity or product thereof specified in subsection (2) of this section. Such persons are referred to in this chapter as "handlers." Such orders shall regulate, in the manner hereinafter in this section provided, only such handling of such agricultural commodity, or product thereof, as is in the current of interstate or foreign commerce, or which directly burdens, obstructs, or affects, interstate or foreign commerce in such commodity or product thereof.

(2) **Commodities to which applicable.** Orders issued pursuant to this section shall be applicable only to the following agricultural commodities and the products thereof (except products of naval stores), or to any regional, or market classification of any such commodity or product: Milk, fruits (including pecans and walnuts but not including apples and not including fruits, other than olives, for canning), tobacco, vegetables (not including vegetables, other than asparagus, for canning), soybeans and naval stores as included in sections 91 to 99 of this title and standards established thereunder (including refined or partially refined oleoresin).

(3) **Notice and hearing.** Whenever the Secretary of Agriculture has reason to believe that the issuance of an order will tend to effectuate the declared policy of this chapter with respect to any commodity or product thereof specified in subsection (2) of this section, he shall give due notice of and an opportunity for a hearing upon a proposed order.

(4) **Finding and issuance of order.** After such notice and opportunity for hearing, the Secretary of Agriculture shall issue an order if he finds, and sets forth in such order, upon the evidence introduced at such hearing (in addition to such other findings as may be specifically required by this section) that the issuance of such order and all of the terms and conditions thereof will tend to effectuate the declared policy of this character with respect to such commodity.

(5) **Milk and its products; terms and conditions of orders.** In the case of milk and its products, orders issued pursuant to this section shall contain one or more of the following terms and conditions, and (except as provided in subsection (7)) no others:

(A) Classifying milk in accordance with the form in which or the purpose for which it is used, and fixing, or providing a method for fixing, minimum prices for each such use classification which all handlers shall pay, and the time when payments shall be made, for milk purchased from producers or associations of producers. Such prices shall be uniform as to all handlers, subject only to adjustments for (1) volume, market, and production differentials customarily applied by the handlers subject to such order, (2) the grade or quality of the milk purchased, and (3) the locations at which delivery of such milk, or any use classification thereof, is made to such handlers.

(B) Providing:

(i) for the payment to all producers and associations of producers delivering milk to the same handler of uniform prices for all milk delivered by them: *Provided*, That, except in the case of orders covering milk products only, such provision is approved or favored by at least three-fourths of the producers who, during a representative period determined by the

Secretary of Agriculture, have been engaged in the production for market of milk covered in such order or by producers who, during such representative period, have produced at least three-fourths of the volume of such milk produced for market during such period; the approval required hereunder shall be separate and apart from any other approval or disapproval provided for by this section; or

(ii) for the payment to all producers and associations of producers delivering milk to all handlers of uniform prices for all milk so delivered, irrespective of the uses made of such milk by the individual handler to whom it is delivered;

subject, in either case, only to adjustments for (a) volume, market, and production differentials customarily applied by the handlers subject to such order, (b) the grade or quality of the milk delivered, (c) the locations at which delivery of such milk is made, and (d) a further adjustment, equitably to apportion the total value of the milk purchased by any handler, or by all handlers, among producers and associations of producers, on the basis of their production of milk during a representative period of time.

(C) In order to accomplish the purposes set forth in paragraphs (A) and (B) of this subsection (5), providing a method for making adjustments in payments, as among handlers (including producers who are also handlers), to the end that the total sums paid by each handler shall equal the value of the milk purchased by him at the prices fixed in accordance with paragraph (A) hereof.

(D) Providing that, in the case of all milk purchased by handlers from any producer who did not regularly sell milk during a period of 30 days next preceding the effective date of such order for consumption in the area covered thereby, payments to such producer, for the period beginning with the first regular delivery by such producer and continuing until the end of two full calendar months following the first day of the next succeeding calendar month, shall be made at the price for the lowest use classification specified in such order, subject to the adjustments specified in paragraph (B) of this subsection (5).

(E) Providing (i) except as to producers for whom such services are being rendered by a cooperative marketing association, qualified as provided in paragraph (F) of this subsection (5), for market information to producers and for the verification of weights, sampling, and testing of milk purchased from producers, and for making appropriate deductions therefor from payments to producers, and (ii) for assurance of, and security for, the payment by handlers for milk purchased.

(F) Nothing contained in this subsection (5) is intended or shall be construed to prevent a cooperative marketing association qualified under the provisions of sections 451 to 457 of this title, known as the "Capper-Volstead Act", engaged in making collective sales or marketing of milk or its products for the producers thereof, from blending the net proceeds of all of its sales in all markets in all use classifications, and making distribution thereof to its producers in accordance with the contract between the association and its producers: *Provided*, That it shall not sell milk or its products to any handler for use or consumption in any market at prices less than the prices fixed pursuant to paragraph (A) of this subsection (5) for such milk.

(G) No marketing agreement or order applicable to milk and its products in any marketing area shall prohibit or in any manner limit, in the case of the products of milk, the marketing in that area of any milk or product thereof produced in any production area in the United States.

(6) **Other commodities; terms and conditions of orders.** In the case of fruits (including pecans and walnuts but not including apples and not including fruits, other than olives, for canning) and their prod-

ucts, tobacco and its products, vegetables (not including vegetables, other than asparagus, for canning) and their products, soybeans and their products, and naval stores as included in sections 91 to 99 of this title and standards established thereunder (including refined or partially refined oleoresin), orders issued pursuant to this section shall contain one or more of the following terms and conditions, and (except as provided in subsection (7)) no others:

(A) Limiting, or providing methods for the limitation of, the total quantity of any such commodity or product, or of any grade, size, or quality thereof, produced during any specified period or periods, which may be marketed in or transported to any or all markets in the current of interstate or foreign commerce or so as directly to burden, obstruct, or affect interstate or foreign commerce in such commodity or product thereof, during any specified period or periods by all handlers thereof.

(B) Allotting, or providing methods for allotting, the amount of such commodity or product, or any grade, size, or quantity thereof, which each handler may purchase from or handle on behalf of any and all producers thereof, during any specified period or periods, under a uniform rule based upon the amounts produced or sold by such producers in such prior period as the Secretary determines to be representative, or upon the current production or sales of such producers, or both, to the end that the total quantity thereof to be purchased or handled during any specified period or periods shall be apportioned equitably among producers.

(C) Allotting, or providing methods for allotting, the amount of any such commodity or product, or any grade, size, or quality thereof, which each handler may market in or transport to any or all markets in the current of interstate or foreign commerce or so as directly to burden, obstruct, or affect interstate or foreign commerce in such commodity or product thereof, under a uniform rule based upon the amounts which each such handler has available for current shipment, or upon the amounts shipped by each such handler in such prior period as the Secretary determines to be representative, or both, to the end that the total quantity of such commodity or product, or any grade, size, or quality thereof, to be marketed in or transported to any or all markets in the current of interstate or foreign commerce or so as directly to burden, obstruct, or affect interstate or foreign commerce in such commodity or product thereof, during any specified period or periods shall be equitably apportioned among all of the handlers thereof.

(D) Determining, or providing methods for determining, the existence and extent of the surplus of any such commodity or product, or of any grade, size, or quality thereof, and providing for the control and disposition of such surplus, and for equalizing the burden of such surplus elimination or control among the producers and handlers thereof.

(E) Establishing, or providing for the establishment of, reserve pools of any such commodity or product, or of any grade, size, or quality thereof, and providing for the equitable distribution of the net return derived from the sale thereof among the persons beneficially interested therein.

(7) **Terms common to all orders.** In the case of the agricultural commodities and the products thereof specified in subsection (2) orders shall contain one or more of the following terms and conditions:

(A) Prohibiting unfair methods of competition and unfair trade practices in the handling thereof.

(B) Providing that (except for milk and cream to be sold for consumption in fluid form) such commodity or product thereof, or any grade, size, or quality thereof shall be sold by the handlers thereof only at prices filed by such handlers in the manner provided in such order.

(C) Providing for the selection by the Secretary of Agriculture, or a method for the selection, of an agency

or agencies and defining their powers and duties, which shall include only the powers:

(i) To administer such order in accordance with its terms and provisions;

(ii) To make rules and regulations to effectuate the terms and provisions of such order;

(iii) To receive, investigate, and report to the Secretary of Agriculture complaints of violations of such order; and

(iv) To recommend to the Secretary of Agriculture amendments to such order.

No person acting as a member of an agency established pursuant to this paragraph (C) shall be deemed to be acting in an official capacity, within the meaning of section 610 (g) of this title, unless such person receives compensation for his personal services from funds of the United States.

(D) Incidental to, and not inconsistent with, the terms and conditions specified in subsections (5), (6), and (7) and necessary to effectuate the other provisions of such order.

(8) **Orders with marketing agreement.** Except as provided in subsection (9) of this section, no order issued pursuant to this section shall become effective until the handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping the commodity or product thereof covered by such order) of not less than 50 per centum of the volume of the commodity or product thereof covered by such order which is produced or marketed within the production or marketing area defined in such order have signed a marketing agreement, entered into pursuant to section 608b of this title, which regulates the handling of such commodity or product in the same manner as such order, except that as to citrus fruits produced in any area producing what is known as California citrus fruits no order issued pursuant to this subsection (8) shall become effective until the handlers of not less than 80 per centum of the volume of such commodity or product thereof covered by such order have signed such a marketing agreement: *Provided*, That no order issued pursuant to this subsection shall be effective unless the Secretary of Agriculture determines that the issuance of such order is approved or favored:

(A) By at least two-thirds of the producers who (except that as to citrus fruits produced in any area producing what is known as California citrus fruits said order must be approved or favored by three-fourths of the producers), during a representative period determined by the Secretary, have been engaged, within the production area specified in such marketing agreement or order, in the production for market of the commodity specified therein, or who, during such representative period, have been engaged in the production of such commodity for sale in the marketing area specified in such marketing agreement, or order, or

(B) By producers who, during such representative period, have produced for market at least two-thirds of the volume of such commodity produced for market within the production area specified in such marketing agreement or order, or who, during such representative period, have produced at least two-thirds of the volume of such commodity sold within the marketing area specified in such marketing agreement or order.

(9) **Orders with or without marketing agreement.** Any order issued pursuant to this section shall become effective in the event that, notwithstanding the refusal or failure of handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping the commodity or product thereof covered by such order) of more than 50 per centum of the volume of the commodity or product thereof (except that as to citrus fruits produced in any area producing what is known as California citrus fruits said per centum shall be 80 per centum) covered by such order which is produced or marketed within the production or marketing area



defined in such order to sign a marketing agreement relating to such commodity or product thereof, on which a hearing has been held, the Secretary of Agriculture, with the approval of the President, determines:

(A) That the refusal or failure to sign a marketing agreement (upon which a hearing has been held) by the handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping the commodity or product thereof covered by such order) of more than 50 per centum of the volume of the commodity or product thereof (except that as to citrus fruits produced in any area producing what is known as California citrus fruits said per centum shall be 80 per centum) specified therein which is produced or marketed within the production or marketing area specified therein tends to prevent the effectuation of the declared policy of this title with respect to such commodity or product, and

(B) That the issuance of such order is the only practical means of advancing the interests of the producers of such commodity pursuant to the declared policy, and is approved or favored:

(i) By at least two-thirds of the producers (except that as to citrus fruits produced in any area producing what is known as California citrus fruits said order must be approved or favored by three-fourths of the producers) who, during a representative period determined by the Secretary, have been engaged, within the production area specified in such marketing agreement or order, in the production for market of the commodity specified therein, or who, during such representative period, have been engaged in the production of such commodity for sale in the marketing area specified in such marketing agreement, or order, or

(ii) By producers who, during such representative period, have produced for market at least two-thirds of the volume of such commodity produced for market within the production area specified in such marketing agreement or order, or who, during such representative period, have produced at least two-thirds of the volume of such commodity sold within the marketing area specified in such marketing agreement or order.

(10) **Manner of regulation and applicability.** No order shall be issued under this section unless it regulates the handling of the commodity or product covered thereby in the same manner as, and is made applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held. No order shall be issued under this title prohibiting, regulating, or restricting the advertising of any commodity or product covered thereby, nor shall any marketing agreement contain any provision prohibiting, regulating, or restricting the advertising of any commodity or product covered by such marketing agreement.

(11) **Regional application.** (A) No order shall be issued under this section which is applicable to all production areas or marketing areas, or both, of any commodity or product thereof unless the Secretary finds that the issuance of several orders applicable to the respective regional production areas or regional marketing areas, or both, as the case may be, of the commodity or product would not effectively carry out the declared policy of this chapter.

(B) Except in the case of milk and its products, orders issued under this section shall be limited in their application to the smallest regional production areas or regional marketing areas, or both, as the case may be, which the Secretary finds practicable, consistently with carrying out such declared policy.

(C) All orders issued under this section which are applicable to the same commodity or product thereof shall, so far as practicable, prescribe such different terms, applicable to different production areas and marketing areas, as the Secretary finds necessary to give due recognition to the differences in production

and marketing of such commodity or product in such areas.

(12) **Approval of cooperative association as approval of producers.** Whenever, pursuant to the provisions of this section, the Secretary is required to determine the approval or disapproval of producers with respect to the issuance of any order, or any term or condition thereof, or the termination thereof, the Secretary shall consider the approval or disapproval by any cooperative association of producers, bona fide engaged in marketing the commodity or product thereof covered by such order, or in rendering services for or advancing the interests of the producers of such commodity, as the approval or disapproval of the producers who are members of, stockholders in, or under contract with, such cooperative association of producers.

(13) **Retailer and producer exemption.** (A) No order issued under subsection (9) of this section shall be applicable to any person who sells agricultural commodities or products thereof at retail in his capacity as such retailer, except to a retailer in his capacity as a retailer of milk and its products.

(B) No order issued under this chapter shall be applicable to any producer in his capacity as a producer.

(14) **Violation of order; penalty.** Any handler subject to an order issued under this section, or any officer, director, agent, or employee of such handler, who violates any provision of such order (other than a provision calling for payment of a pro rata share of expenses) shall, on conviction, be fined not less than \$50 or more than \$500 for each such violation, and each day during which such violation continues shall be deemed a separate violation: *Provided*, That if the court finds that a petition pursuant to subsection (15) of this section was filed and prosecuted by the defendant in good faith and not for delay, no penalty shall be imposed under this subsection for such violations as occurred between the date upon which the defendant's petition was filed with the Secretary, and the date upon which notice of the Secretary's ruling thereon was given to the defendant in accordance with regulations prescribed pursuant to subsection (15).

(15) **Petition by handler for modification of order or exemption; court review of ruling of Secretary.**

(A) Any handler subject to an order may file a written petition with the Secretary of Agriculture, stating that any such order or any provision of any such order or any obligation imposed in connection therewith is not in accordance with law and praying for a modification thereof or to be exempted therefrom. He shall thereupon be given an opportunity for a hearing upon such petition, in accordance with regulations made by the Secretary of Agriculture, with the approval of the President. After such hearing, the Secretary shall make a ruling upon the prayer of such petition which shall be final, if in accordance with law.

(B) The District Courts of the United States (including the Supreme Court of the District of Columbia) in any district in which such handler is an inhabitant, or has his principal place of business, are hereby vested with jurisdiction in equity to review such ruling, provided a bill in equity for that purpose is filed within twenty days from the date of the entry of such ruling. Service of process in such proceedings may be had upon the Secretary by delivering to him a copy of the bill of complaint. If the court determines that such ruling is not in accordance with law, it shall remand such proceedings to the Secretary with directions either (1) to make such ruling as the court shall determine to be in accordance with law, or (2) to take such further proceedings as, in its opinion, the law requires. The pendency of proceedings instituted pursuant to this subsection (15) shall not impede, hinder, or delay the United States or the Secretary of Agriculture from obtaining relief pursuant to section 608a(6) of this title. Any proceedings brought pursuant to section 608a(6) of this

title (except where brought by way of counterclaim in proceedings instituted pursuant to this subsection (15)) shall abate whenever a final decree has been rendered in proceedings between the same parties, and covering the same subject matter, instituted pursuant to this subsection (15).

(16) **Termination of orders and marketing agreements.** (A) The Secretary of Agriculture shall, whenever he finds that any order issued under this section, or any provision thereof, obstructs or does not tend to effectuate the declared policy of this title, terminate or suspend the operation of such order or such provision thereof.

(B) The Secretary shall terminate any marketing agreement entered into under section 608b of this title, or order issued under this section, at the end of the then current marketing period for such commodity, specified in such marketing agreement or order, whenever he finds that such termination is favored by a majority of the producers who, during a representative period determined by the Secretary, have been engaged in the production for market of the commodity specified in such marketing agreement or order, within the production area specified in such marketing agreement or order, or who, during such representative period, have been engaged in the production of such commodity for sale within the marketing area specified in such marketing agreement or order: *Provided*, That such majority have, during such representative period, produced for market more than 50 per centum of the volume of such commodity produced for market within the production area specified in such marketing agreement or order, or have, during such representative period, produced more than 50 per centum of the volume of such commodity sold in the marketing area specified in such marketing agreement or order, but such termination shall be effective only if announced on or before such date (prior to the end of the then current marketing period) as may be specified in such marketing agreement or order.

(C) The termination or suspension of any order or amendment thereto or provision thereof, shall not be considered an order within the meaning of this section.

(17) **Provisions applicable to amendments.** The provisions of this section, section 608d and section 608e of this title applicable to orders shall be applicable to amendments to orders: *Provided*, That notice of a hearing upon a proposed amendment to any order issued pursuant to this section, given not less than three days prior to the date fixed for such hearing, shall be deemed due notice thereof. (May 12, 1933, c. 25, Title I, § 8c, as added Aug. 24, 1935, c. 641, § 5, 49 Stat. 753.)

The Act of Aug. 24, 1935, cited to the text, struck out provisions of section 8 (3) of the Act of May 12, 1933, cited to the text, formerly appearing in section 608 (3), ante, and added a new section 8c containing the provisions now appearing in the text.

§ 608d. **Books and records; disclosure of information.** (1) All parties to any marketing agreement, and all handlers subject to an order, shall severally, from time to time, upon the request of the Secretary, furnish him with such information as he finds to be necessary to enable him to ascertain and determine the extent to which such agreement or order has been carried out or has effectuated the declared policy of this chapter, and with such information as he finds to be necessary to determine whether or not there has been any abuse of the privilege of exemptions from the antitrust laws. Such information shall be furnished in accordance with forms of reports to be prescribed by the Secretary. For the purpose of ascertaining the correctness of any report made to the Secretary pursuant to this subsection, or for the purpose of obtaining the information required in any such report, where it has been requested and has not been furnished, the Secretary is hereby authorized to examine such books, papers, records, copies of income-tax

reports, accounts, correspondence, contracts, documents, or memoranda, as he deems relevant and which are within the control (1) of any such party to such marketing agreement, or any such handler, from whom such report was requested or (2) of any person having, either directly or indirectly, actual or legal control of or over such party or such handler or (3) of any subsidiary of any such party, handler, or person.

(2) Notwithstanding the provisions of section 607 of this title, all information furnished to or acquired by the Secretary of Agriculture pursuant to this section shall be kept confidential by all officers and employees of the Department of Agriculture and only such information so furnished or acquired as the Secretary deems relevant shall be disclosed by them, and then only in a suit or administrative hearing brought at the direction, or upon the request, of the Secretary of Agriculture, or to which he or any officer of the United States is a party, and involving the marketing agreement or order with reference to which the information so to be disclosed was furnished or acquired. Nothing in this section shall be deemed to prohibit (A) the issuance of general statements based upon the reports of a number of parties to a marketing agreement or of handlers subject to an order, which statements do not identify the information furnished by any person, or (B) the publication by direction of the Secretary, of the name of any person violating any marketing agreement or any order, together with a statement of the particular provisions of the marketing agreement or order violated by such person. Any such officer or employee violating the provisions of this section shall upon conviction be subject to a fine of not more than \$1,000 or to imprisonment for not more than one year, or to both, and shall be removed from office. (May 12, 1933, c. 25, Title I, § 8d, as added Aug. 24, 1935, c. 641, § 6, 49 Stat. 761.)

The Act of Aug. 24, 1935, cited to the text, struck out provisions of section 8 (4) of the Act of May 12, 1933, cited to the text, formerly appearing in section 608 (4), ante, and added a new section 8d containing the provisions now appearing in the text.

§ 608e. **Determination of base period.** In connection with the making of any marketing agreement or the issuance of any order, if the Secretary finds and proclaims that, as to any commodity specified in such marketing agreement or order, the purchasing power during the base period specified for such commodity in section 602 of this title cannot be satisfactorily determined from available statistics of the Department of Agriculture, the base period, for the purposes of such marketing agreement or order, shall be the post-war period, August 1919–July 1929, or all that portion thereof for which the Secretary finds and proclaims that the purchasing power of such commodity can be satisfactorily determined from available statistics of the Department of Agriculture. (May 12, 1933, c. 25, Title I, § 8e, as added Aug. 24, 1935, c. 641, § 6, 49 Stat. 762.)

§ 608f. **Surrender of warehoused goods without receipt; penalties for violation.** No person engaged in the storage in a public warehouse of any basic agricultural commodity in the current of interstate or foreign commerce, shall deliver any such commodity upon which a warehouse receipt has been issued and is outstanding, without prior surrender and cancellation of such warehouse receipt. Any person violating any of the provisions of this section shall, upon conviction, be punished by a fine of not more than \$5,000, or by imprisonment for not more than two years, or both. (May 12, 1933, c. 25, Title I, § 8f [8(5)], 48 Stat. 34, as amended Aug. 24, 1935, c. 641, § 7, 49 Stat. 762.)

The provisions now appearing in this section were originally enacted as part of section 8, subsection 5 of the Act of May 12, 1933, cited to the text, and formerly appeared as section 608 (5) of this chapter. The Act of Aug. 24, 1935, cited to the text, amended section 8, subsection 5 of the Act of May 12, 1933, by designating said subsection as section 8f, by inserting said section at the end of sec-

tion 8e (section 608e, ante), and by striking out the last sentence thereof." The last sentence read as follows: "The Secretary of Agriculture may revoke any license issued under subsection (3) of this section, if he finds, after due notice and opportunity for hearing, that the licensee has violated the provisions of this subsection."

**§ 609. Processing tax; methods of computation; rate; what constitutes processing; publicity as to tax to avoid profiteering.** (a) To obtain revenue for extraordinary expenses incurred by reason of the national economic emergency, there shall be levied processing taxes as hereinafter provided. When the Secretary of Agriculture determines that any one or more payments authorized to be made under section 608 of this title are to be made with respect to any basic agricultural commodity, he shall proclaim such determination, and a processing tax shall be in effect with respect to such commodity from the beginning of the marketing year therefor next following the date of such proclamation; except that (1) in the case of sugar beets and sugarcane, the Secretary of Agriculture shall, on or before the thirtieth day after May 9, 1934, proclaim that rental or benefit payments with respect to said commodities are to be made, and the processing tax shall be in effect on and after the thirtieth day after May 9, 1934, and (2) in the case of rice, the Secretary of Agriculture shall, before April 1, 1935, proclaim that rental or benefit payments are to be made with respect thereto, and the processing tax shall be in effect on and after April 1, 1935. In the case of sugar beets and sugarcane, the calendar year shall be considered to be the marketing year and for the year 1934 the marketing year shall begin January 1, 1934. In the case of rice, the period from August 1 to July 31, both inclusive, shall be considered to be the marketing year. The processing tax shall be levied, assessed, and collected upon the first domestic processing of the commodity, whether of domestic production or imported, and shall be paid by the processor. The rate of tax shall conform to the requirements of subsection (b). Such rate shall be determined by the Secretary of Agriculture as of the date the tax first takes effect, and the rate so determined shall, at such intervals as the Secretary finds necessary to effectuate the declared policy, be adjusted by him to conform to such requirements. The processing tax shall terminate at the end of the marketing year current at the time the Secretary proclaims that all payments authorized under section 608 of this title which are in effect are to be discontinued with respect to such commodity. The marketing year for each commodity shall be ascertained and prescribed by regulations of the Secretary of Agriculture: *Provided*, That upon any article upon which a manufacturers' sales tax is levied under the authority of chapter 20 of Title 26 and which manufacturers' sales tax is computed on the basis of weight, such manufacturers' sales tax shall be computed on the basis of the weight of said finished article less the weight of the processed cotton contained therein on which a processing tax has been paid.

(b) (1) The processing tax shall be at such rate as equals the difference between the current average farm price for the commodity and the fair exchange value of the commodity, plus such percentage of such difference, not to exceed 20 per centum, as the Secretary of Agriculture may determine will result in the collection, in any marketing year with respect to which such rate of tax may be in effect pursuant to the provisions of this title, of an amount of tax equal to (A) the amount of credits or refunds which he estimates will be allowed or made during such period pursuant to section 615(c) of this title with respect to the commodity and (B) the amount of tax which he estimates would have been collected during such period upon all processings of such commodity which are exempt from tax by reason of the fact that such processings are done by or for a State, or a political subdivision or an institution thereof, had such processings been subject to tax. If, prior to the time the tax takes effect, or at any time thereafter, the Secretary has reason to believe that the tax at such rate,

or at the then existing rate, on the processing of the commodity generally or for any designated use or uses, or on the processing of the commodity in the production of any designated product or products thereof for any designated use or uses, will cause or is causing such reduction in the quantity of the commodity or products thereof domestically consumed as to result in the accumulation of surplus stocks of the commodity or products thereof or in the depression of the farm price of the commodity, then the Secretary shall cause an appropriate investigation to be made, and afford due notice and opportunity for hearing to interested parties. If thereupon the Secretary determines and proclaims that any such result will occur or is occurring, then the processing tax on the processing of the commodity generally or for any designated use or uses, or on the processing of the commodity in the production of any designated product or products thereof for any designated use or uses, shall be at such lower rate or rates as he determines and proclaims will prevent such accumulation of surplus stocks and depression of the farm price of the commodity, and the tax shall remain during its effective period at such lower rate until the Secretary, after due notice and opportunity for hearing to interested parties, determines and proclaims that an increase in the rate of such tax will not cause such accumulation of surplus stocks or depression of the farm price of the commodity. Thereafter the processing tax shall be at the highest rate which the Secretary determines will not cause such accumulation of surplus stocks or depression of the farm price of the commodity, but it shall not be higher than the rate provided in the first sentence of this paragraph.

(2) In the case of wheat, cotton, field corn, hogs, peanuts, tobacco, paper, and jute, and (except as provided in paragraph (8) of this subsection) in the case of sugarcane and sugar beets, the tax on the first domestic processing of the commodity generally or for any particular use, or in the production of any designated product for any designated use, shall be levied, assessed, collected, and paid at the rate prescribed by the regulations of the Secretary of Agriculture in effect on the date of the adoption of this amendment, during the period from such date to December 31, 1937, both dates inclusive.

(3) For the period from April 1, 1935, to July 31, 1936, both inclusive, the processing tax with respect to rice shall be levied, assessed, collected, and paid at the rate of 1 cent per pound of rough rice.

(4) For the period from September 1, 1935, to December 31, 1937, both inclusive, the processing tax with respect to rye shall be levied, assessed, collected, and paid at the rate of 30 cents per bushel of fifty-six pounds. In the case of rye, the first marketing year shall be considered to be the period commencing September 1, 1935, and ending June 30, 1936. Subsequent marketing years shall commence on July 1 and end on June 30 of the succeeding year. The provisions of section 16 of this title shall not apply in the case of rye.

(5) If at any time prior to December 31, 1937, a tax with respect to barley becomes effective pursuant to proclamation as provided in subsection (a) of this section, such tax shall be levied, assessed, collected, and paid during the period from the date upon which such tax becomes effective to December 31, 1937, both inclusive, at the rate of 25 cents per bushel of forty-eight pounds. The provisions of section 616 of this title shall not apply in the case of barley.

(6) (A) Any rate of tax which is prescribed in paragraph (2), (3), (4), or (5) of this subsection or which is established pursuant to this paragraph (6) on the processing of any commodity generally or for any designated use or uses, or on the processing of the commodity in the production of any designated product or products thereof for any designated use or uses, shall be decreased (including a decrease to zero) in accordance with the formulae, standards, and requirements of paragraph (1) of this subsection, in order to prevent such reduction in the quantity of such

commodity or the products thereof domestically consumed as will result in the accumulation of surplus stocks of such commodity or the products thereof or in the depression of the farm price of the commodity, and shall thereafter be increased in accordance with the provisions of paragraph (1) of this subsection but subject to the provisions of subdivision (B) of this paragraph (6).

(B) If the average farm price of any commodity, the rate of tax on the processing of which is prescribed in paragraph (2), (3), (4), or (5) of this subsection or is established pursuant to this paragraph (6), during any period of twelve successive months ending after July 1, 1935, consisting of the first ten months of any marketing year and the last two months of the preceding marketing year—

(i) is equal to, or exceeds by 10 per centum or less, the fair exchange value thereof, or, in the case of tobacco, is less than the fair exchange value by not more than 10 per centum, the rate of such tax shall (subject to the provisions of subdivision (A) of this paragraph (6)) be adjusted, at the beginning of the next succeeding marketing year, to such rate as equals 20 per centum of the fair exchange value thereof.

(ii) exceeds by more than 10 per centum, but not more than 20 per centum, the fair exchange value thereof, the rate of such tax shall (subject to the provisions of subdivision (A) of this paragraph (6)) be adjusted, at the beginning of the next succeeding marketing year, to such rate as equals 15 per centum of the fair exchange value thereof.

(iii) exceeds by more than 20 per centum the fair exchange value thereof, the rate of such tax shall (subject to the provisions of subdivision (A) of this paragraph (6)) be adjusted, at the beginning of the next succeeding marketing year, to such rate as equals 10 per centum of the fair exchange value thereof.

(C) Any rate of tax which has been adjusted pursuant to this paragraph (6) shall remain at such adjusted rate unless further adjusted or terminated pursuant to this paragraph (6), until December 31, 1937, or until July 31, 1936, in the case of rice.

(D) In accordance with the formulae, standards, and requirements prescribed in this title, any rate of tax prescribed in paragraph (2), (3), (4), or (5) of this subsection or which is established pursuant to this paragraph (6) shall be increased.

(E) Any tax, the rate of which is prescribed in paragraph (2), (3), (4), or (5) of this subsection or which is established pursuant to this paragraph (6), shall terminate pursuant to proclamation as provided in section 609 (a) of this title or pursuant to section 613 of this title. Any such tax with respect to any basic commodity which terminates pursuant to proclamation as provided in section 609 (a) of this title shall again become effective at the rate prescribed in paragraph (2), (3), (4), or (5) of this subsection, subject however to the provisions of subdivisions (A) and (B) of this paragraph (6), from the beginning of the marketing year for such commodity next following the date of a new proclamation by the Secretary as provided in section 609 (a) of this title, if such marketing year begins prior to December 31, 1937, or prior to July 31, 1936, in the case of rice, and shall remain at such rate until altered or terminated pursuant to the provisions of section 609 or terminated pursuant to section 613 of this title.

(F) After December 31, 1937 (in the case of the commodities specified in paragraphs (2), (4), and (5) of this subsection), and after July 31, 1936 (in the case of rice), rates of tax shall be determined by the Secretary of Agriculture in accordance with the formulae, standards, and requirements prescribed in this title but not in this paragraph (6), and shall, subject to such formulae, standards, and requirements, thereafter be effective.

(G) If the applicability to any person or circumstances of any tax, the rate of which is fixed in pursuance of this paragraph (6), is finally held invalid by reason of any provision of the Constitution, or is finally held invalid by reason of the Secretary of Agriculture's exercise or failure to exercise any

power conferred on him under this title, there shall be levied, assessed, collected, and paid (in lieu of all rates of tax fixed in pursuance of this paragraph (6) with respect to all tax liabilities incurred under this title on or after the effective date of each of the rates of tax fixed in pursuance of this paragraph (6), rates of tax fixed under paragraph (2), (3), (4), or (5), and such rates shall be in effect (unless the particular tax is terminated pursuant to proclamation, as provided in section 609 (a) of this title or pursuant to section 613 of this title) until altered by Act of Congress; except that, for any period prior to the effective date of such holding of invalidity, the amount of tax which represents the difference between the tax at the rate fixed in pursuance of this paragraph (6) and the tax at the rate fixed under paragraphs (2), (3), (4), and (5) shall not be levied, assessed, collected, or paid.

(7) In the case of rice, the weight to which the rate of tax shall be applied shall be the weight of rough rice when delivered to a processor, except that, where the producer processes his own rice, the weight to which the rate of tax shall be applied shall be the weight of rough rice when delivered to the place of processing.

(8) In the case of sugar beets or sugarcane the rate of tax shall be applied to the direct-consumption sugar, resulting from the first domestic processing, translated into terms of pounds of raw value according to regulations to be issued by the Secretary of Agriculture, and in the event that the Secretary increases or decreases the rate of tax fixed by paragraph (2) of this subsection, pursuant to the provisions of paragraph (6) of this subsection, then the rate of tax to be so applied shall be the higher of the two following quotients: The difference between the current average farm price and the fair exchange value (A) of a ton of sugar beets and (B) of a ton of sugarcane, divided in the case of each commodity by the average extraction therefrom of sugar in terms of pounds of raw value (which average extraction shall be determined from available statistics of the Department of Agriculture); the rate of tax fixed by paragraph (2) of this subsection or adjusted pursuant to the provisions of paragraph (6) of this subsection shall in no event exceed the amount of the reduction by the President on a pound of sugar raw value of the rate of duty in effect on January 1, 1934, under paragraph 501 of section 1001 of Title 19, as adjusted to the treaty of commercial reciprocity concluded between the United States and the Republic of Cuba on December 11, 1902, and/or the provisions of sections 124 and 125 of Title 19.

(9) In computing the current average farm price in the case of wheat, premiums paid producers for protein content shall not be taken into account.

(c) For the purposes of sections 608 to 622 of this title, the fair exchange value of a commodity shall be the price therefor that will give the commodity the same purchasing power, with respect to articles farmers buy, as such commodity had during the base period specified in section 602 of this title; and, in the case of all commodities where the base period is the pre-war period, August 1909 to July 1914, will also reflect interest payments per acre on farm indebtedness secured by real estate and tax payments per acre on farm real estate, as contrasted with such interest payments and tax payments during said base period; and the current average farm price and the fair exchange value shall be ascertained by the Secretary of Agriculture from available statistics of the Department of Agriculture. The rate of tax upon the processing of any commodity, in effect on the date on which this amendment is adopted, shall not be affected by the adoption of this amendment and shall not be required to be adjusted or altered, unless the Secretary of Agriculture finds that it is necessary to adjust or alter any such rate pursuant to section 609 (a) of this title.

(d) As used in sections 608 to 619 of this chapter—

(1) In case of wheat, rye, barley, rice, and corn, the term "processing" means the milling or other

processing (except cleaning and drying) of wheat, rye, barley, rice, or corn for market, including custom milling for toll as well as commercial milling, but shall not include the grinding or cracking thereof not in the form of flour for feed purposes only. \* \* \*

(4) [Repealed.]

(5) [Repealed.] \* \* \*

(As amended Aug. 24, 1935, c. 641, § 14, 49 Stat. 766.)

(7) In the case of rice—

(A) The term "rough rice" means rice in that condition which is usual and customary when delivered by the producer to a processor.

(B) The term "processing" means the cleaning, shelling, milling (including custom milling for toll as well as commercial milling), grinding, rolling, or other processing (except grinding or cracking by or for the producer thereof for feed for his own livestock, cleaning by or directly for a producer for seed purposes, and drying) of rough rice; and in the case of rough rice with respect to which a tax-payment warrant has been previously issued or applied for by application then pending, the term "processing" means any one of the above mentioned processings or any preparation or handling in connection with the sale or other disposition thereof.

(C) The term "cooperating producer" means any person (including any share-tenant or share-cropper) whom the Secretary of Agriculture finds to be willing to participate in the 1935 production-adjustment program for rice.

(D) The term "processor", as used in subsection (b-1) of section 615 of this title, means any person (including a cooperative association of producers) engaged in the processing of rice on a commercial basis (including custom milling for toll as well as commercial milling).

(8) In the case of any other commodity, the term "processing" means any manufacturing or other processing involving a change in the form of the commodity or its preparation for distribution or use, as defined by regulations of the Secretary of Agriculture; and in prescribing such regulations the Secretary shall give due weight to the customs of the industry.

(e) When any processing tax, or increase or decrease therein, takes effect in respect of a commodity the Secretary of Agriculture, in order to prevent pyramiding of the processing tax and profiteering in the sale of the products derived from the commodity, shall make public such information as he deems necessary regarding (1) the relationship between the processing tax and the price paid to producers of the commodity, (2) the effect of the processing tax upon prices to consumers of products of the commodity, (3) the relationship, in previous periods, between prices paid to the producers of the commodity and prices to consumers of the products thereof, and (4) the situation in foreign countries relating to prices paid to producers of the commodity and prices to consumers of the products thereof.

(f) For the purposes of sections 608 to 619 of this title, processing shall be held to include manufacturing.

(g) Nothing contained in this chapter shall be construed to authorize any tax upon the processing of any commodity which processing results in the production of newsprint. (As amended Mar. 18, 1935, c. 32, §§ 1-6, 49 Stat. 45; Aug. 24, 1935, c. 641, § 15, 49 Stat. 767.)

#### § 610. Powers of Secretary of Agriculture generally.

(b) State and local committees or associations of producers; handlers' share of expenses of authority or agency. (1) The Secretary of Agriculture is authorized to establish, for the more effective administration of the functions vested in him by this chapter, State and local committees, or associations of producers, and to permit cooperative associations of

producers, when in his judgment they are qualified to do so, to act as agents of their members and patrons in connection with the distribution of payments authorized to be made under section 608 of this title. The Secretary, in the administration of this chapter, shall accord such recognition and encouragement to producer-owned and producer-controlled cooperative associations as will be in harmony with the policy toward cooperative associations set forth in existing Acts of Congress, and as will tend to promote efficient methods of marketing and distribution.

(2) Each order issued by the Secretary under this chapter shall provide that each handler subject thereto shall pay to any authority or agency established under such order such handler's pro rata share (as approved by the Secretary) of such expenses as the Secretary may find will necessarily be incurred by such authority or agency, during any period specified by him, for the maintenance and functioning of such authority or agency, other than expenses incurred in receiving, handling, holding, or disposing of any quantity of a commodity received, handled, held, or disposed of by such authority or agency for the benefit or account of persons other than handlers subject to such order. The pro rata share of the expenses payable by a cooperative association of producers shall be computed on the basis of the quantity of the agricultural commodity or product thereof covered by such order which is distributed, processed, or shipped by such cooperative association of producers. Any such authority or agency may maintain in its own name, or in the names of its members, a suit against any handler subject to an order for the collection of such handler's pro rata share of expenses. The several District Courts of the United States are hereby vested with jurisdiction to entertain such suits regardless of the amount in controversy.

(e) Review of official acts. The action of any officer, employee, or agent in determining the amount of and in making any payment authorized to be made under section 608 of this title shall not be subject to review by any officer of the Government other than the Secretary of Agriculture or Secretary of the Treasury.

(f) Geographical application. \* \* \* applicable to the Philippine Islands, the Virgin Islands, American Samoa, the Canal Zone, and/or the island of Guam. The President is authorized to attach by Executive order any or all of such possessions to any internal-revenue collection district for the purpose of carrying out the provisions of this title with respect to the collection of taxes.

(i) Cooperation with State authorities; imparting information. The Secretary of Agriculture upon the request of the duly constituted authorities of any State is directed, in order to effectuate the declared policy of this chapter and in order to obtain uniformity in the formulation, administration, and enforcement of Federal and State programs relating to the regulation of the handling of agricultural commodities or products thereof, to confer with and hold joint hearings with the duly constituted authorities of any State, and is authorized to cooperate with such authorities; to accept and utilize, with the consent of the State, such State and local officers and employees as may be necessary; to avail himself of the records and facilities of such authorities; to issue orders (subject to the provisions of section 608c of this title) complementary to orders or other regulations issued by such authorities; and to make available to such State authorities the records and facilities of the Department of Agriculture: *Provided*, That information furnished to the Secretary of Agriculture pursuant to section 608d (1) of this title shall be made available only to the extent that such information is relevant to transactions within the regulatory



jurisdiction of such authorities, and then only upon a written agreement by such authorities that the information so furnished shall be kept confidential by them in a manner similar to that required of Federal officers and employees under the provisions of section 608d (2) of this title. (As amended Aug. 24, 1935, c. 641, §§ 16-18, 49 Stat. 767; Aug. 26, 1935, c. 685, 49 Stat. 801.)

**§ 611. "Basic agricultural commodity" defined; exclusion of commodities.** As used in this chapter, the term "basic agricultural commodity" means wheat, rye, flax, barley, cotton, field corn, grain sorghums, hogs, cattle, rice, potatoes, tobacco, peanuts, sugar beets and sugarcane, and milk and its products, and any regional or market classification, type, or grade thereof; but the Secretary of Agriculture shall exclude from the operation of the provisions of this chapter, during any period, any such commodity or classification, type, or grade thereof if he finds, upon investigation at any time and after due notice and opportunity for hearing to interested parties, that the conditions of production, marketing, and consumption are such that during such period this chapter can not be effectively administered to the end of effectuating the declared policy with respect to such commodity or classification, type, or grade thereof. As used in this chapter, the term "potatoes" means all varieties of potatoes included in the species *Solanum tuberosum*. (As amended Aug. 24, 1935, c. 641, § 61, 49 Stat. 782.)

**§ 612. Appropriation; use of revenues derived from taxes; administrative expenses, what included.** (a) There is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$100,000,000 to be available to the Secretary of Agriculture for administrative expenses under this chapter and for payments authorized to be made under section 608 of this title. Such sum shall remain available until expended.

(b) In addition to the foregoing, for the purpose of effectuating the declared policy of this chapter, a sum equal to the proceeds derived from all taxes imposed under this title is hereby appropriated to be available to the Secretary of Agriculture for (1) the acquisition of any agricultural commodity pledged as security for any loan made by any Federal agency, which loan was conditioned upon the borrower agreeing or having agreed to cooperate with a program of production adjustment or marketing adjustment adopted under the authority of this chapter, and (2) the following purposes under sections 608 to 619 of this title: Administrative expenses, payments authorized to be made under section 608 of this title, and refunds on taxes. The Secretary of Agriculture and the Secretary of the Treasury shall jointly estimate \* \* \* (As amended Aug. 24, 1935, c. 641, §§ 3 and 19, 49 Stat. 753 and 768.)

**§ 612b. Appropriation for elimination of disease in dairy and beef cattle.** There is authorized to be appropriated the sum of \$40,000,000, of which sum \$10,000,000 is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to enable the Secretary of Agriculture, under rules and regulations to be promulgated by him and upon such terms as he may prescribe, to eliminate diseased dairy and beef cattle, including cattle suffering from tuberculosis or Bang's disease, and to make payments to owners with respect thereto. The Secretary of Agriculture is authorized to use for scientific experimentation and efforts to eradicate disease in cattle, as much as he finds advisable of the funds appropriated by or in pursuance of the authorization contained in this section and the funds appropriated by the second paragraph of Public Resolution Numbered 27, Seventy-third Congress, approved May 25, 1934, to carry out 612a of this title. The sums appropriated or re-appropriated by this section shall remain available until June 30, 1936, and such sums and the sums appropriated in pursuance of the authorization con-

tained in this section shall be available to carry out the purposes of both this section and such section 612a of this title, and may be used for all necessary expenses in connection therewith, including the employment of persons and means in the District of Columbia and elsewhere. The unexpended balance of the funds appropriated by the second paragraph of such Public Resolution Numbered 27 to carry out the purposes of section 612(c) of this title, shall remain available for the purposes of such section until June 30, 1936. (Aug. 24, 1935, c. 641, § 37, 49 Stat. 775.)

**§ 612c. Appropriation to encourage exportation and domestic consumption of agricultural products.** There is appropriated for each fiscal year beginning with the fiscal year ending June 30, 1936 an amount equal to 30 per centum of the gross receipts from duties collected under the customs laws during the period January 1 to December 31, both inclusive, preceding the beginning of each such fiscal year. Such sums shall be maintained in a separate fund and shall be used by the Secretary of Agriculture only to (1) encourage the exportation of agricultural commodities and products thereof by the payment of benefits in connection with the exportation thereof or of indemnities for losses incurred in connection with such exportation or by payments to producers in connection with the production of that part of any agricultural commodity required for domestic consumption; (2) encourage the domestic consumption of such commodities or products by diverting them, by the payment of benefits or indemnities or by other means, from the normal channels of trade and commerce; and (3) finance adjustments in the quantity planted or produced for market of agricultural commodities. The amounts appropriated under this section shall be expended for such of the above-specified purposes, and at such times, in such manner, and in such amounts as the Secretary of Agriculture finds will tend to increase the exportation of agricultural commodities and products thereof, and increase the domestic consumption of agricultural commodities and products thereof: *Provided*, That no part of the funds appropriated by this section shall be expended pursuant to clause (3) hereof unless the Secretary of Agriculture determines that the expenditure of such part pursuant to clauses (1) and (2) is not necessary to effectuate the purposes of this section: *Provided further*, That no part of the funds appropriated by this section shall be used for the payment of benefits in connection with the exportation of unmanufactured cotton. (Aug. 24, 1935, c. 641, § 32, 49 Stat. 774.)

**§ 613. Termination of chapter.** \* \* \* In the case of sugar beets and sugarcane, the taxes provided by this chapter shall cease to be in effect, and the powers vested in the President or in the Secretary of Agriculture shall terminate on December 31, 1937 unless this chapter ceases to be in effect at an earlier date, as hereinabove provided. \* \* \* (As amended Aug. 24, 1935, c. 641, § 20, 49 Stat. 768.)

**§ 615. Refunds of tax; exemptions from tax; compensating tax; compensating tax on foreign goods; covering into Treasury.** (a) \* \* \* or (3) the Secretary of the Treasury shall refund (in accordance with the provisions of, to such persons and in such manner as shall be specified in, such certification) the amount of any tax paid (prior to the date of any revocation by the Secretary of Agriculture of his certification to the Secretary of the Treasury, upon further investigation and after due notice and opportunity for hearing to interested parties) under this title with respect to such amount of the commodity or any product thereof as is used after the date of such certification in the manufacture of such products, or shall credit against any tax due and payable under this title the amount of tax which would be refundable. During the period in which any certificate under this section is effective, the provisions of subsection (e) of this section shall be suspended with respect to all imported articles of the kind described in such cer-

tificate; and notwithstanding the provisions of section 623 of this title, any compensating taxes, which have heretofore, during the period in which any certificate under this section has been effective, become due and payable upon imported articles of the kind described in such certificate, shall be refunded by the Secretary of the Treasury if the same have been paid, or, if the same have not been paid the amount thereof shall be abated. Notwithstanding the provisions of section 623 of this title, the Secretary of the Treasury shall refund or credit any processing tax paid on or before June 12, 1934, with respect to such amount of cotton as was used in the manufacture of large cotton bags (as defined in the Certificate of the Secretary of Agriculture, dated June 12, 1934) between June 13 and July 7, 1934, both inclusive.

\* \* \* \*

(b-1) The Secretary of Agriculture is authorized and directed to issue tax-payment warrants, with respect to rough rice produced in 1933 and 1934 (provided the processing of such rice is not exempt from the tax, and provided no tax payment warrant has been previously issued with respect thereto or previously applied for by application then pending, sufficient to cover the tax with respect to the processing thereof at the rate in effect at the time of such issuance, to any processor with respect to any such rice which he has in his possession on March 31, 1935, and to, or at the direction of any other person with respect to any such rice which, on or after April 1, 1935, he delivers for processing or sells to a processor: *Provided*, That in case any such processor or other person is the producer of such rice (or has received such rice by gift, bequest, or descent from the producer thereof) that such processor or other person is, if eligible, a cooperating producer: *And provided further*, That in case such processor or other person is not the producer thereof (nor a person who has received such rice by gift, bequest, or descent from the producer thereof), (a) that, if the title to such rice was transferred from the producer thereof, whether by operation of law or otherwise, prior to April 1, 1935, such producer received the price prescribed in any marketing agreement, license, regulation, or administrative ruling, pursuant to this title, applicable to the sale of such rice by the producer, and (b) that, if the title to such rice was transferred from the producer thereof, whether by operation of law or otherwise, on or after April 1, 1935, such producer received at least the full market price therefor plus an amount equal to 99 per centum of the face value of tax-payment warrants sufficient to cover the tax on the processing of such rice at rate in effect at the time title was so transferred, and was, if eligible, a cooperating producer.

(b-2) The warrants authorized and directed to be issued by subsection (b-1) of this section—

(1) shall be issued by the Secretary of Agriculture or his duly authorized agent in such manner, at such time or times, at such place or places, in such form, and subject to such terms and conditions with reference to the transfer thereof or the voiding of warrants fraudulently obtained and/or erroneously issued, as the Secretary of Agriculture may prescribe, and the Secretary of Agriculture is authorized to discontinue the further issuance of tax-payment warrants at any time or times and in any region or regions when he shall determine that the rice in any such region or regions can no longer be identified adequately as rice grown in 1933 or 1934; and

(2) shall be accepted by the Collector of Internal Revenue and the Secretary of the Treasury at the face value thereof in payment of any processing tax on rice.

(b-3) (1) Any person who deals or traffics in, or purchases any such tax-payment warrant or the right of any person thereto at less than 99 per centum of its face value shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than

\$1,000 or imprisoned for not more than one year or both.

(2) Any person who, with intent to defraud, secures or attempts to secure, or aids or assists in or procures, counsels, or advises, the securing or attempting to secure any tax-payment warrant with respect to rice as to which any tax-payment warrant has been theretofore issued shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$1,000 or imprisoned for not more than one year, or both.

(3) Any person who with intent to defraud forges, makes, alters, or counterfeits any tax-payment warrant or any stamp, tag, or other means of identification provided for by this title or any regulation issued pursuant thereto, or makes any false entry upon such warrant or any false statement in any application for the issuance of such warrant, or who uses, sells, lends, or has in his possession any such altered, forged, or counterfeited warrant or stamp, tag, or other means of identification, or who makes, uses, sells, or has in his possession any material in imitation of the material used in the manufacture of such warrants or stamps, tags, or other means of identification, shall, upon conviction thereof, be punished by a fine not exceeding \$5,000 or by imprisonment not exceeding five years, or both.

(4) All producers, warehousemen, processors, and common carriers, having information with respect to rice produced in the years 1933 or 1934, may be required to furnish to the Secretary of Agriculture such information as he shall, by order, prescribe as necessary to safeguard the issuance, transfer, and/or use of tax-payment warrants.

(5) The Secretary of Agriculture may make regulations protecting the interests of producers (including share-tenants and share-croppers) and others, in the issuance, holding, use, and/or transfer of such tax-payment warrants.

\* \* \* \*

(c) \* \* \* repaid, or has agreed in writing to repay, the amount of the tax to the said organization. The word "State" as used in this section shall include a State and any political subdivision thereof.

(d) The Secretary of Agriculture shall ascertain from time to time whether the payment of the processing tax upon any basic agricultural commodity is causing or will cause to the processors or producers thereof disadvantages in competition from competing commodities by reason of excessive shifts in consumption between such commodities or products thereof \* \* \*

(e) During any period for which a processing tax is in effect with respect to any commodity there shall be levied, assessed, collected, and paid upon any article processed or manufactured wholly or partly from such commodity and imported into the United States or any possession thereof to which this chapter applies, from any foreign country or from any possession of the United States to which this chapter does not apply, whether imported as merchandise, or as a container of merchandise, or otherwise, a compensating tax equal to the amount of the processing tax in effect with respect to domestic processing of such commodity into such an article at the time of importation: *Provided*, (1) That in the event any of the provisions of this title have been or are hereafter made applicable to any possession of the United States in the case of any particular commodity or commodities, but not generally, this title, for the purposes of this subsection, shall be deemed applicable to such possession with respect to such commodity or commodities but shall not be deemed applicable to such possession with respect to other commodities; and (2) That all taxes collected under this subsection upon articles coming from the possessions of the United States to which this chapter does not apply shall not be covered into the general fund of the Treasury of

the United States but shall be held as a separate fund and paid into the Treasury of the said possessions, respectively, to be used and expended by the government's thereof for the benefit of agriculture. Such tax shall be paid prior to the release of the article from customs custody or control. (As amended Mar. 18, 1935, c. 32, §§ 8, 9, 49 Stat. 48; Aug. 24, 1935, c. 641, §§ 21-24, 49 Stat. 768.)

\* \* \*

**§ 616. Stock on hand when tax takes effect or terminates.** (a) \* \* \*

(2) Whenever the processing tax is wholly terminated, (A) there shall be refunded or credited in the case of a person holding such stocks with respect to which a tax under this chapter has been paid, or (B) there shall be credited or abated in the case of a person holding such stocks with respect to which a tax under this chapter is payable, where such person is the processor liable for the payment of such tax, or (C) there shall be refunded or credited (but not before the tax has been paid) in the case of a person holding such stocks with respect to which a tax under this chapter is payable, where such person is not the processor liable for the payment of such tax, a sum in an amount equivalent to the processing tax which would have been payable with respect to the commodity from which processed if the processing had occurred on such date: *Provided*, That in the case of any commodity with respect to which there was any increase, effective prior to June 1, 1934, in the rate of the processing tax, no such refund, credit, or abatement, shall be in an amount which exceeds the equivalent of the initial rate of the processing tax in effect with respect to such commodity.

(b) The tax imposed by subsection (a) shall not apply to the retail stocks of persons engaged in retail trade, held at the date the processing tax first takes effect; but such retail stocks shall not be deemed to include stocks held in a warehouse on such date, or such portion of other stocks held on such date as are not sold or otherwise disposed of within thirty days thereafter. Except as to flour and prepared flour, and cereal preparations made chiefly from wheat, as classified in Wheat Regulations, Series 1, Supplement 1, and as to any article processed wholly or in chief value from cotton, the tax refund, credit, or abatement provided in subsection (a) of this section shall not apply to the retail stocks of persons engaged in retail trade, nor to any article (except sugar) processed wholly or in chief value from sugar beets, sugarcane, or any product thereof, nor to any article (except flour, prepared flour and cereal preparations made chiefly from wheat, as classified in Wheat Regulations, Series 1, Supplement 1) processed wholly or in chief value from wheat, held on the date the processing tax is wholly terminated.

\* \* \*

(e) Upon the sale or other disposition of any article processed wholly or in chief value from any commodity with respect to which the existing rate of the processing tax is to be increased, or decreased, that on the date such increase, or decrease, first takes effect with respect to the commodity, is held for sale or other disposition (including articles in transit) by any person, and upon the production of any article from a commodity in process on the date on which the rate of the processing tax is to be increased or decreased, there shall be made a tax adjustment as follows:

(1) Whenever, subsequent to June 26, 1934, the rate of the processing tax on the processing of the commodity generally or for any designated use or uses, or as to any designated product or products thereof for any designated use or uses, or as to any class of products, is decreased, there shall be credited or refunded to such person an amount equivalent to the difference between the rate of the processing tax payable or paid at the time immediately preceding the decrease in rate and the rate of the processing tax which would have been payable with respect to the

commodity from which processed, if the processing had occurred on such date: *Provided, however*, That no such credit or refund shall be made in the case of hogs unless the rate of the processing tax immediately preceding said decrease is equal to, or less than, the rate of the processing tax in effect on the date on which any flour stocks tax was paid prior to the adoption of this amendment. In the case of wheat the provisions of this paragraph and of paragraph (2) of this subsection shall apply to flour, prepared flour and cereal preparations made chiefly from wheat, as classified in Wheat Regulations, Series 1, Supplement 1 only; in the case of sugarcane and sugar beets the provisions of this paragraph and of paragraph (2) of this subsection shall apply to sugar only.

(2) Whenever the rate of the processing tax on the processing of the commodity generally, or for any designated use or uses, or as to any designated product or products thereof for any designated use or uses, or as to any class of products, is increased, there shall be levied, assessed and collected a tax to be paid by such person equivalent to the difference between the rate of the processing tax payable or paid at the time immediately preceding the increase in rate and the rate of the processing tax which would be payable with respect to the commodity from which processed, if the processing had occurred on such date.

(3) Whenever the processing tax is suspended or is to be refunded pursuant to a certification of the Secretary of Agriculture to the Secretary of the Treasury, under section 615 (a) of this title, the provisions of subdivision (1) of this subsection shall become applicable.

(4) Whenever the Secretary of Agriculture revokes any certification to the Secretary of the Treasury under section 615 (a) of this title, the provisions of subdivision (2) of this subsection shall become applicable.

(5) The provisions of subsection (e) shall be effective on and after June 1, 1934.

(f) The provisions of this section shall not be applicable with respect to rice.

(g) No refund, credit, or abatement of any amount of any tax shall be made or allowed under this section, unless, within one hundred and twenty days after the right to such refund, credit, or abatement accrued, or within one hundred and twenty days after the date of the adoption of this amendment, whichever is the later, a claim for such refund, credit, or abatement (conforming to such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe) is filed by the person entitled to such refund, credit, or abatement, and no such claim shall be allowed for an amount less than \$10. (As amended Mar. 18, 1935, c. 32, § 10, 49 Stat. 48; Aug. 24, 1935, c. 641, §§ 25-27, 49 Stat. 769.)

Subsection (c) of this section was amended by Act Aug. 24, 1935, c. 641, § 20, 49 Stat. 768, by striking out the last sentence thereof.

**§ 617. Refund on goods exported; bond to suspend tax on commodity intended for export.** (a) Upon the exportation to any foreign country (and/or to the Philippine Islands, the Virgin Islands, American Samoa, the Canal Zone, and the island of Guam) of any product processed wholly or partly from a commodity with respect to which product or commodity a tax has been paid or is payable under this chapter, the tax due and payable or due and paid shall be credited or refunded. Under regulations prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, the credit or refund shall be allowed to the consignor named in the bill of lading under which the product is exported or to the shipper or to the person liable for the tax provided the consignor waives any claim thereto in favor of such shipper or person liable for the tax. In the case of rice, a tax due under this title which has been paid by a tax-payment warrant shall be deemed



for the purposes of this subsection to have been paid; and with respect to any refund authorized under this section, the amount scheduled by the Commissioner of Internal Revenue for refunding shall be paid, any provision of law notwithstanding. In the case of sugar beets and sugarcane, this subsection shall be applicable to exports of products thereof to the Philippine Islands, the Virgin Islands, American Samoa, the Canal Zone, and/or the island of Guam only if this chapter with respect to sugar beets and sugarcane is not made applicable thereto. The term "product" includes any product exported as merchandise, or as a container for merchandise, or otherwise. (As amended Mar. 18, 1935, c. 32, § 11, 49 Stat. 48; Aug. 24, 1935, c. 641, § 28, 49 Stat. 770.)

§ 619. Collection of tax; provisions of internal revenue laws applicable; loans from Reconstruction Finance Corporation; returns.

(b) All provisions of law, including penalties applicable with respect to the taxes imposed by section 600 of the Revenue Act of 1926, and the provisions of section 626 of the Revenue Act of 1932, shall, in so far as applicable and not inconsistent with the provisions of this chapter, be applicable in respect of taxes imposed by this chapter: *Provided*, That the Secretary of the Treasury is authorized to permit postponement, for a period not exceeding one hundred and eighty days, of the payment of not exceeding three-fourths of the amount of the taxes covered by any return under this chapter, but postponement of all taxes covered by returns under this chapter for a period not exceeding one hundred and eighty days may be permitted in cases in which the Secretary of the Treasury authorizes such taxes to be paid each month on the amount of the commodity marketed during the next preceding month.

(d) Under regulations made by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, any person required pursuant to the provisions of this chapter to file a return may be required to file such return and pay the tax shown to be due thereon to the collector of internal revenue for the district in which the processing was done or the liability was incurred. Whenever the Commissioner of Internal Revenue deems it necessary, he may require any person or class of persons handling or dealing in any commodity or product thereof, with respect to which a tax is imposed under the provisions of this chapter, to make a return, render under oath such statements, or to keep such records, as the Commissioner deems sufficient to show whether or not such person, or any other person, is liable for the tax. (As amended Aug. 24, 1935, c. 641, §§ 28, 29, 49 Stat. 770.)

§ 619a. Cotton tax, time for payment. The processing tax authorized by section 609 of this chapter, when levied upon cotton, shall be payable ninety days after the filing of the processor's report: *Provided*, That, under regulations to be prescribed by the Secretary of the Treasury, the time for payment of such tax upon cotton may be extended, but in no case to exceed six months from the date of the filing of the report. (May 17, 1935, c. 131, Title I, § 2, 49 Stat. 281.)

§ 623. Actions relating to tax; legalization of prior taxes.

(a) Action to restrain collection of tax or obtain declaratory judgment forbidden. No suit, action, or proceeding (including probate, administration, receivership, and bankruptcy proceedings) shall be brought or maintained in any court if such suit, action, or proceeding is for the purpose or has the effect (1) of preventing or restraining the assessment or collection of any tax imposed or the amount of any

penalty or interest accrued under this chapter on or after August 24, 1935, or (2) of obtaining a declaratory judgment under section 400 of Title 28 in connection with any such tax or such amount of any such interest or penalty. In probate, administration, receivership, bankruptcy, or other similar proceedings, the claim of the United States for any such tax or such amount of any such interest or penalty, in the amount assessed by the Commissioner of Internal Revenue, shall be allowed and ordered to be paid, but the right to claim the refund or credit thereof and to maintain such claim pursuant to the applicable provisions of law, including subsection (d) of this section, may be reserved in the court's order.

(b) Taxes imposed prior to Aug. 24, 1935, legalized and ratified. The taxes imposed under this chapter, as determined, prescribed, proclaimed and made effective by the proclamations and certificates of the Secretary of Agriculture or of the President and by the regulations of the Secretary with the approval of the President prior to the date of the adoption of this amendment, are hereby legalized and ratified, and the assessment, levy, collection, and accrual of all such taxes (together with penalties and interest with respect thereto) prior to said date are hereby legalized and ratified and confirmed as fully to all intents and purposes as if each such tax had been made effective and the rate thereof fixed specifically by prior Act of Congress. All such taxes which have accrued and remain unpaid August 24, 1935, shall be assessed and collected pursuant to section 619 of this title, and to the provisions of law made applicable thereby. Nothing in this section shall be construed to import illegality to any act, determination, proclamation, certificate, or regulation of the Secretary of Agriculture or of the President done or made prior to August 24, 1935.

(c) Rental and benefit payments, agreements, and programs made prior to Aug. 24, 1935, legalized and ratified. The making of rental and benefit payments under this chapter prior to August 24, 1935, as determined, prescribed, proclaimed and made effective by the proclamations of the Secretary of Agriculture or of the President or by regulations of the Secretary, and the initiation, if formally approved by the Secretary of Agriculture prior to such date of adjustment programs under section 608 (1) of this chapter, and the making of agreements with producers prior to such date, and the adoption of other voluntary methods prior to such date, by the Secretary of Agriculture under this chapter, and rental and benefit payments made pursuant thereto, are hereby legalized and ratified, and the making of all such agreements and payments, the initiation of such programs, and the adoption of all such methods prior to such date are hereby legalized, ratified, and confirmed as fully to all intents and purposes as if each such agreement, program, method, and payment had been specifically authorized and made effective and the rate and amount thereof fixed specifically by prior Act of Congress.

(d) Passing tax to vendee or others as barring recovery or refund; refunds in case tax held invalid; limitation of action; jurisdiction of District Courts. (1) No recovery, recoupment, set-off, refund, or credit shall be made or allowed of, nor shall any counter claim be allowed for, any amount of any tax, penalty, or interest which accrued before, on, or after August 24, 1935 under this chapter (including any overpayment of such tax), unless, after a claim has been duly filed, it shall be established, in addition to all other facts required to be established, to the satisfaction of the Commissioner of Internal Revenue, and the Commissioner shall find and declare of record, after due notice by the Commissioner to such claimant and opportunity for hearing, that neither the claimant nor any person directly or indirectly under his control or having control over him, has, directly or indirectly, included such amount in the price of the article with respect to which it was imposed or of any article processed from the commodity with respect to which

it was imposed, or passed on any part of such amount to the vendee or to any other person in any manner, or included any part of such amount in the charge or fee for processing, and that the price paid by the claimant or such person was not reduced by any part of such amount. In any judicial proceeding relating to such claim, a transcript of the hearing before the Commissioner shall be duly certified and filed as the record in the case and shall be so considered by the court. The provisions of this subsection shall not apply to any refund or credit authorized by subsection (a) or (c) of section 615, section 616, or section 617 of this title, or to any refund or credit to the processor of any tax paid by him with respect to the provisions of section 1317 of Title 19.

(2) In the event that any tax imposed by this chapter is finally held invalid by reason of any provision of the Constitution, or is finally held invalid by reason of the Secretary of Agriculture's exercise or failure to exercise any power conferred on him under this chapter, there shall be refunded or credited to any person (not a processor or other person who paid the tax) who would have been entitled to a refund or credit pursuant to the provisions of subsections (a) and (b) of section 616 of this title, had the tax terminated by proclamation pursuant to the provisions of section 613 of this title, and in lieu thereof, a sum in an amount equivalent to the amount to which such person would have been entitled had the Act been valid and had the tax with respect to the particular commodity terminated immediately prior to the effective date of such holding of invalidity, subject, however, to the following condition: Such claimant shall establish to the satisfaction of the Commissioner, and the Commissioner shall find and declare of record, after due notice by the Commissioner to the claimant and opportunity for hearing, that the amount of the tax paid upon the processing of the commodity used in the floor stocks with respect to which the claim is made was included by the processor or other person who paid the tax in the price of such stocks (or of the material from which such stocks were made). In any judicial proceeding relating to such claim, a transcript of the hearing before the Commissioner shall be duly certified and filed as the record in the case and shall be so considered by the court. Notwithstanding any other provision of law: (1) no suit or proceeding for the recovery, recoupment, set-off, refund or credit or any tax imposed by this chapter, or of any penalty or interest, which is based upon the invalidity of such tax by reason of any provision of the Constitution or by reason of the Secretary of Agriculture's exercise or failure to exercise any power conferred on him under this chapter, shall be maintained in any court, unless prior to the expiration of six months after the date on which such tax imposed by this chapter has been finally held invalid a claim therefor (conforming to such regulations as the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury, may prescribe) is filed by the person entitled thereto; (2) no such suit or proceeding shall be begun before the expiration of one year from the date of filing such claim unless the Commissioner renders a decision thereon within that time, nor after the expiration of five years from the date of the payment of such tax, penalty, or sum, unless suit or proceeding is begun within two years after the disallowance of the part of such claim to which such suit or proceeding relates. The Commissioner shall within 90 days after such disallowance notify the taxpayer thereof by mail.

(3) The District Courts of the United States shall have jurisdiction of cases to which this subsection applies, regardless of the amount in controversy, if such courts would have had jurisdiction of such cases but for limitations under the Judicial Code, as amended, on jurisdiction of such courts based upon the amount in controversy.

(e) Examination of records and witnesses; confidential nature of information; penalty for disclosure.

In connection with the establishment, by any claimant, of the facts required to be established in subsection (d) of this section, the Commissioner of Internal Revenue is hereby authorized, by any officer or employee of the Bureau of Internal Revenue, including the field service, designated by him for that purpose, to examine any books, papers, records, or memoranda, relative to any matter affecting the findings to be made by the Commissioner pursuant to subsection (d) of this section, to require the attendance of the claimant or of any officer or employee of the claimant, or the attendance of any other person having knowledge in the premises, and to take, or cause to be taken, his testimony with reference to any such matter, with power to administer oaths to such person or persons. It shall be lawful for the Commissioner, or any collector designated by him, to summon witnesses on behalf of the United States or of any claimant to appear before the Commissioner, or before any person designated by him, at a time and place named in the summons, and to produce such books, papers, correspondence, memoranda, or other records as the Commissioner may deem relevant or material, and to give testimony or answer interrogatories, under oath, relating to any matter affecting the findings to be made by the Commissioner pursuant to subsection (d) of this section. The provisions of section 1515 (d) and (e) of Title 26 shall be applicable with respect to any summons issued pursuant to the provisions of this subsection. Any witness summoned under this subsection shall be paid, by the party on whose behalf such witness was summoned, the same fees and mileage as are paid witnesses in the courts of the United States. All information obtained by the Commissioner pursuant to this subsection shall be available to the Secretary of Agriculture upon written request therefor. Such information shall be kept confidential by all officers and employees of the Department of Agriculture, and any such officer or employee who violates this requirement shall, upon conviction, be subject to a fine of not more than \$1,000 or to imprisonment for not more than one year, or both, and shall be removed from office.

(f) **Claims for refunds under sections 615 and 617; time for filing.** No refund, credit, or abatement shall be made or allowed of the amount of any tax, under section 615, or section 617 of this title, unless, within one year after the right to such refund, credit, or abatement has accrued, a claim for such refund, credit, or abatement (conforming to such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe) is filed by the person entitled to such refund, credit, or abatement, except that if the right to any such refund, credit, or abatement accrued prior to August 24, 1935, then such one year period shall be computed from said date. No interest shall be allowed or paid, or included in any judgment, with respect to any such claim for refund or credit.

(g) **Application of sections 1672-1673 of Title 26 to suits for recovery of tax.** The provisions of sections 1672-1673 of Title 26 are extended to apply to any suit for the recovery of any amount of any tax, penalty, or interest, which accrued, before, on, or after August 24, 1935 under this chapter (whether an overpayment or otherwise), and to any suit for the recovery of any amount of tax which results from an error in the computation of the tax or from duplicate payments of any tax, or any refund or credit authorized by subsection (a) or (c) of section 615, section 616, or section 617 of this title or any refund or credit to the processor of any tax paid by him with respect to articles exported pursuant to the provisions of section 1317 of Title 19. (May 12, 1933, c. 25, Title I, § 21, as added Aug. 24, 1935, c. 641, § 30, 49 Stat. 770.)

§ 624. **Limitation on imports; authority of President.** (a) Whenever the President has reason to believe that any one or more articles are being imported into the United States under such conditions and in sufficient quantities as to render or tend to

render ineffective or materially interfere with any program or operation undertaken, or to reduce substantially the amount of any product processed in the United States from any commodity subject to and with respect to which an adjustment program is in operation, under this chapter, he shall cause an immediate investigation to be made by the United States Tariff Commission, which shall give precedence to investigations under this section to determine such facts. Such investigation shall be made after due notice and opportunity for hearing to interested parties and shall be conducted subject to such regulations as the President shall specify.

(b) If, on the basis of such investigation and report to him of findings and recommendations made in connection therewith, the President finds the existence of such facts, he shall by proclamation impose such limitations on the total quantities of any article or articles which may be imported as he finds and declares shown by such investigation to be necessary to prescribe in order that the entry of such article or articles will not render or tend to render ineffective or materially interfere with any program or operation undertaken, or will not reduce substantially the amount of any product processed in the United States from any commodity subject to and with respect to which an adjustment program is in operation, under this chapter: *Provided*, That no limitation shall be imposed on the total quantity of any article which may be imported from any country which reduces such permissible total quantity to less than 50 per centum of the average annual quantity of such article which was imported from such country during the period from July 1, 1928, to June 30, 1933, both dates inclusive.

(c) No import restriction proclaimed by the President under this section nor any revocation, suspension, or modification thereof shall become effective until fifteen days after the date of such proclamation, revocation, suspension, or modification.

(d) Any decision of the President as to facts under this section shall be final.

(e) After investigation, report, finding, and declaration in the manner provided in the case of a proclamation issued pursuant to subsection (b) of this section, any proclamation or provision of such proclamation may be suspended by the President whenever he finds that the circumstances requiring the proclamation or provision thereof no longer exist, or may be modified by the President whenever he finds that changed circumstances require such modification to carry out the purposes of this section. (May 12, 1933, c. 25, Title I, § 22, as added Aug. 24, 1935, c. 641, § 31, 49 Stat. 773.)

## Chapter 27.—COTTON MARKETING

§ 702. **Period of applicability.** The provisions of this chapter shall be effective only with respect to the crop years 1934–1935, but if the President finds that the economic emergency in cotton production and marketing will continue or is likely to continue to exist so that the application of this chapter with respect to the crop year 1935–1936 or the crop year 1936–1937 or the crop year 1937–1938, is imperative in order to carry out the policy declared in section 701, he shall so proclaim, and this chapter shall be effective with respect to the crop year 1935–1936 or the crop year 1936–1937 or the crop year 1937–1938. If at any time prior to the end of the crop year 1935–1936 or the crop year 1936–1937 or the crop year 1937–1938, the President finds that the economic emergency in cotton production and marketing has ceased to exist, he shall so proclaim, and no tax under this chapter shall be levied with respect to cotton harvested after the effective date of such proclamation. (As amended Aug. 24, 1935, c. 641, § 39 [a], 49 Stat. 776.)

§ 703. **Determination of allotment.** (a) \* \* \* exempt from the payment of taxes thereon. In ascertaining the sentiment of the producers with respect to

the crop year 1936–1937 or the crop year 1937–1938, the vote in favor of the compulsory tax features of this chapter, by two-thirds of the producers voting, shall be deemed sufficient for the purposes of this subsection. (As amended Aug. 24, 1935, c. 641, § 39 [b], 49 Stat. 777.)

\* \* \* \* \*

§ 703a. **Allotment by Secretary legalized and ratified.** The action of the Secretary of Agriculture in ascertaining and proclaiming, pursuant to section 703 (a) and (b) of this title, 10,500,000 bales as the maximum amount of cotton of the crop harvested in the crop year 1935–1936 that may be marketed exempt from payment of the tax levied by this chapter, is legalized and ratified, and all apportionments and other action taken pursuant to such ascertainment and proclamation are legalized and ratified and confirmed as fully to all intents and purposes as if such amount had been fixed and such apportionments and action had been authorized and made effective specifically by Act of Congress (Aug. 24, 1935, c. 641, § 39 [d], 49 Stat. 777.)

### § 704. Tax returns; payment; exemption.

\* \* \* \* \*

(h) The Secretary of Agriculture is directed to exempt by regulation from the payment of the tax on the ginning of cotton as levied under authority of this chapter, an amount of lint cotton not in excess of one hundred and ten pounds, produced by or for any producer and retained for domestic use in his household. (As amended Aug. 24, 1935, c. 641, § 42, 49 Stat. 778.)

§ 705. **Apportionment to states and counties.** (a) When an allotment is made, in order to prevent unfair competition and unfair trade practices in marketing cotton in the channels of interstate and foreign commerce, the Secretary of Agriculture shall apportion to the several cotton-producing States the number of bales the marketing of which may be exempt from the tax herein levied, which shall be determined by the ratio of the average number of bales produced in each State during the five crop years preceding April 21, 1934, to the average number of bales produced in all the States during the same period: *Provided, however*, That no State shall receive an allotment of less than two hundred thousand bales of cotton if in any one year of five years prior to this date the production of the State equalled two hundred and fifty thousand bales: *Provided further*, That no State shall receive an allotment for any crop year beginning with the crop year 1935–1936 of less than four thousand bales of cotton if during any one of the ten crop years prior to August 9, 1935 the production of such State exceeded five thousand bales. And be it further provided that after the year 1935 no State shall receive an allotment of less than 80,000 bales of cotton if in any one year of five years prior to the date of the passage of said Act the production of the State equalled 100,000 bales. It is prima facie presumed that all cotton and its processed products will move in interstate or foreign commerce. (As amended Aug. 9, 1935, c. 504, 49 Stat. 570; Aug. 24, 1935, c. 641, § 39 [c], 49 Stat. 777.)

\* \* \* \* \*

Subdivision (a) of this section was amended twice in 1935. The amendment of Aug. 9, 1935, inserted, before the period formerly appearing at the end of the first sentence, a colon and the second proviso now appearing in the text. The amendment of Aug. 24, 1935, purposed to amend subdivision (a) by inserting after the sentence "that no State shall receive an allotment of less than 200,000 bales of cotton if in any one year of five years prior to this date the production of the State equalled 250,000 bales", the third proviso now appearing in the text.

### § 707. Appointment to farms.

\* \* \* \* \*

(d) For each crop year subsequent to the crop year 1934–1935 in which this chapter is in effect the Secretary of Agriculture shall make (1) to each farm with an established average production for the applicable base period of 950 pounds or less of lint cotton

an allotment equal to the full amount of such production and (2) to each farm with an established average production for such base period of more than 956 pounds of lint cotton an allotment of not less than 956 pounds. For each crop year subsequent to the crop year 1935-1936, the amount of each such allotment (and for the crop year 1935-1936 and subsequent crop years, the additional amount required for apportionment under the provisions of section 705 (a) of this title), which is in excess of the allotment which, without regard to this subsection or section 705 (a) of this title would have been made to any farm, shall be in addition to the national allotment and the allotments to the State and county in which such farm is situated. The first sentence of this subsection shall not be held to increase any allotment to any farm for the crop year 1935-1936 which allotment was made under regulations of the Secretary of Agriculture prior to August 24, 1935, or to require any reallocation. (As amended Aug. 24, 1935, c. 641, § 39 [e], 49 Stat. 777.)

**§ 709. Tax-exemption certificates; issuance; form; transfer; offenses.**

(d) Any and all certificates of exemption may be transferred or assigned in whole or in part in such manner as the Secretary of Agriculture may prescribe and shall be issued with detachable coupons or in such other form or forms to be prescribed by the Secretary of Agriculture as will facilitate such transfer or assignment. No rule or regulation of the Secretary of Agriculture shall prohibit the transfer or assignment by a cotton producer of certificates issued or reissued to him if such transfer or assignment is to another cotton producer who is a resident of the same State. Any person who, in violation of the regulations made by the Secretary of Agriculture, (1) secures certificates of exemption or bale tags from another by sharp practices, or (2) speculates in certificates of exemption or bale tags, and any person securing certificates of exemption or bale tags from another person by fraud or coercion shall, upon conviction thereof, be fined not more than \$1,000 or sentenced to not more than one year's imprisonment, or both. (As amended Aug. 24, 1935, c. 641, § 41, 49 Stat. 778.)

**§ 717. Officers and employees; additional expenses.**

(a) The Secretary of Agriculture is authorized, in order to carry out the provisions of this chapter, to appoint, without regard to the provisions of the civil service laws, such officers, agents, and employees, and to utilize such Federal officers and employees, and with the consent of the State, such State and local officers and employees, as he may find necessary, to prescribe their authorities, duties, responsibilities, and tenure and, without regard to sections 661 to 674 of Title 5, to fix the compensation of any officers and employees so appointed, except that rates so fixed shall not exceed the rates of compensation prescribed for comparable duties by such sections.

(b) Appropriations for administrative expenses under this chapter are authorized to be made available to enable the Secretary of Agriculture to pay any person, who, in connection with the operation of any cotton gin, incurred additional expenses in connection with the administration of this chapter with respect to cotton ginned during the crop year 1935-1936 or any subsequent crop year in which this chapter is in effect, and who applies to the Secretary therefor, compensation in the amount of such additional expenses, but not in excess of the rate of 25 cents per bale of such cotton ginned by such person, provided proof satisfactory to the Secretary of Agriculture is furnished that the additional expenses for which such person makes application have not been passed on in any manner whatsoever. (As amended Aug. 24, 1935, c. 641, § 40, 49 Stat. 777.)

**§ 723. Definitions.**

"Apr 21 1934, c 154" in citation should be "Apr 21, 1934, c 157."

**Chapter 28.—TOBACCO INDUSTRY**

**§ 751. Definitions.**

(l) The term "Puerto Rican tobacco" means all leaf tobacco classified as type 46 in the United States Department of Agriculture, Bureau of Agricultural Economics, Service and Regulatory Announcements Numbered 118.

(m) The term "cigar-wrapper tobacco" means all leaf tobacco classified in class 6 in the United States Department of Agriculture, Bureau of Agricultural Economics, Service and Regulatory Announcements Numbered 118. (As amended Aug 24, 1935, c. 641, § 44, 49 Stat. 778.)

**§ 752. Declaration of policy.** It is hereby declared to be the policy of Congress to promote the orderly marketing of tobacco in interstate and foreign commerce, to enable producers of tobacco to stabilize their markets against undue and excessive fluctuations, to prevent unfair competition and practices in putting tobacco into the channels of interstate and foreign commerce, and to more effectively balance production and consumption of tobacco, to raise revenue, and to relieve the present emergency with respect to tobacco. (As amended Aug. 24, 1935, c. 641, § 45, 49 Stat. 778.)

**§ 753. Taxation of tobacco.**

(b) The tax provided for by subsection (a) of this section shall be applicable to all tobacco harvested in the crop year 1934-1935, except Maryland tobacco, Virginia sun-cured tobacco, and cigar leaf tobacco, and to all tobacco harvested in the crop year 1935-1936, except Maryland tobacco, Puerto Rican tobacco, and cigar wrapper tobacco. Thereafter whenever the Secretary of Agriculture determines (1) that the imposition of the tax upon any particular type of tobacco is necessary for the orderly marketing of such tobacco in interstate and foreign commerce and to effectuate the declared policy of this chapter, and (2) that two-thirds of the land engaged in the production of such type of tobacco during the crop year in which such determination is made is voted in favor of the levy of the tax upon the sale of such type of tobacco, he shall proclaim such determination at least sixty days prior to the next succeeding crop year, and the tax shall thereafter apply to the sale of tobacco of such type harvested during the crop year next following the date of such proclamation. All persons who have the right, during the crop year in which such determination is made, to sell or to receive a share of the proceeds derived from the sale of tobacco of any type produced by them, or produced on land owned or leased by them, shall be entitled to vote, and the proportion of all the votes cast in each county which are cast in favor of levying the tax upon the sale of such type of tobacco shall determine the proportion of the total amount of tobacco land in such county which shall be deemed to have been voted in favor of levying such tax. The tax provided for by subsection (a) of this section shall not apply to any tobacco harvested after April 30, 1939. (As amended Aug 24 1935, c 641, § 46, 49 Stat 778.)

**§ 755. Tax payment warrants.** (a) (1) \* \* \*

(2) The Secretary of Agriculture shall issue to any person, who, because of religious or moral scruples, is unwilling or unable to become a contracting producer, similar tax-payment warrants covering the quantity of tobacco produced by such person: *Provided*, That the Secretary determines that such person has not planted a greater acreage of tobacco nor sold a greater quantity of tobacco than he could have planted or sold as a contracting producer. (As amended Aug 24, 1935, c. 641, § 47, 49 Stat. 779.)

The amendment by the act of 1935, cited to the text, inserted the designation "(1)" after "(a)" at the beginning of the section and added par (2) as set out above

(b) There shall be available for issuance by the Secretary of Agriculture further warrants, covering an amount of tobacco of any type equal to 3 per centum of the amount of tobacco of such type covered by the warrants issuable or issued to all contracting producers under the provisions of subsection (a) of this section, to persons engaged in the production of tobacco of such type who do not enter into such contracts and as to whom the Secretary determines that no equitable allotment of tobacco acreage or production is possible under such tobacco contracts. Such warrants shall be issued, upon application therefor, upon such basis or classification as the Secretary deems will effectuate the declared policy of this chapter and will be fair and just, and as will apply to all persons eligible to receive warrants under this subsection uniformly on the basis or classification adopted: *Provided*, That warrants covering two-thirds of the amount of any type of tobacco to cover which warrants are available under this subsection shall be issued, upon application therefor, only to persons who receive warrants covering one thousand five hundred pounds or less of any type of tobacco. Warrants issued under this subsection shall be accepted by the collector and the Secretary of the Treasury, upon surrender thereof by the person to whom issued, in payment of the tax on any sale by such person of the type of tobacco specified in the warrant not exceeding in amount the amount of tobacco covered by such warrant. (As amended Aug. 24, 1935, c. 641, § 48, 49 Stat. 779.)

(d) If any tax-payment warrant is erroneously issued to any person, or if the Secretary of Agriculture determines pursuant to this subsection that any person to whom any tax-payment warrant is issued has failed to comply in any crop year with any provision of any agreement entered into by such person pursuant to sections 601 to 624 of this title or has failed to comply with any rule or regulation issued by the Secretary of Agriculture pursuant to this chapter or sections 601 to 624 of this title, any warrant issued during such crop year to such person shall be void upon demand in writing for the return of such warrant made by the Secretary of Agriculture to the person to whom such warrant was issued. If any tax-payment warrant which has been accepted in payment of the tax imposed by this chapter upon the sale of tobacco becomes void pursuant to this subsection either before or after such acceptance, the person to whom such warrant was issued shall, notwithstanding such acceptance of such warrant, be liable for the full amount of the tax upon such sale. (As amended Aug. 24, 1935, c. 641, § 49, 49 Stat. 779.)

#### § 758. Returns.

(b) All persons, in whatever capacity acting, including producers, warehousemen, processors of tobacco, and common carriers, having information with respect to tobacco produced or sold, may be required to make a return in regard thereto, setting forth the amount of tobacco produced, sold, or delivered, the name and address of the person who produced, sold, or delivered said tobacco, or to whom said tobacco was sold or delivered, the price paid on such sale, and any other and further information which the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury and the Secretary of Agriculture, shall by regulations prescribe as necessary for the proper administration and collection of the tax. Any person required to make any such return shall render a true and accurate return to the Commissioner of Internal Revenue.

(c) Any person willfully failing or refusing to file any return required to be filed under this section, or filing willfully any false return, shall be guilty of a misdemeanor and upon conviction thereof shall

be punished by a fine of not more than \$1,000. (As amended Aug. 24, 1935, c. 641, § 50, 49 Stat. 780.)

#### § 759. Transfer of tax warrants; offenses; administration of oaths.

(c) Any person who is authorized in writing by the Secretary of Agriculture to act as his agent in the administration of this chapter shall, while he is acting as such agent, have the power to administer oaths in connection with the execution of forms required by regulations issued pursuant to sections 757 and 758 of this title, but no fee or compensation shall be charged or received by any such agent for administering such an oath. (As amended Aug. 24, 1935, c. 641, § 51, 49 Stat. 780.)

§ 760. Appropriations; administration. (a) The proceeds heretofore and hereafter derived from the tax are appropriated to be available to the Secretary of Agriculture for rental and benefit payments under sections 601 to 624 of this title to contracting producers, for administrative expenses, refunds of taxes, redemption of tax-payment warrants heretofore or hereafter received by contracting producers subsequent to the sale of the tobacco covered by said warrants and subsequent to payment of the tax imposed upon such sale by section 753 of this title, and other payments under this chapter. The Secretary of Agriculture and the Secretary of the Treasury shall estimate from time to time the amount of the tax which will be collected during a period following any such estimate not in excess of four months, and the Secretary of the Treasury shall, out of any money in the Treasury not otherwise appropriated, advance to the Secretary of Agriculture the amounts so estimated. The amount of any such advance shall be deducted from such tax proceeds as shall subsequently become available under this subsection. (As amended Aug. 24, 1935, c. 641, § 52, 49 Stat. 780.)

The amendment by the act of 1935, cited to the text, affected the first sentence of subsection (a) as set out above.

§ 761. Refunds. (a) No refund of any tax, penalty, or interest paid under this chapter shall be allowed unless claim therefor is presented within one year after the date of payment of such tax, penalty, or interest. (As amended Aug. 24, 1935, c. 641, § 53, 49 Stat. 780.)

§ 764. Filing offer to become contracting producer; time. The Secretary of Agriculture is directed not to refuse on the ground of lateness any offer by a tobacco producer to become a contracting producer, if such offer is filed with the Secretary of Agriculture within thirty days after the date of the proclamation by the Secretary of Agriculture, pursuant to subsection (b) of section 753 of this title. (As amended Aug. 24, 1935, c. 641, § 54, 49 Stat. 780.)

### Chapter 29.—POTATO ACT OF 1935

#### Section

- 801 Definitions
- 802 Imposition of tax; yearly referendum of producers.
- 803 Determination of allotment
- 804 Apportionment of allotment to states
- 804a Periodical adjustment of allotments
- 805 Apportionment of allotments to farms
- 806 Apportionment to farms ineligible under section 805
- 807 Apportionment for succeeding allotment years to farms designated under section 806
- 808 District of Columbia deemed part of Maryland
- 809 Exemption from taxation; tax-exemption stamps, assignment or transfer of stamps
- 810 Exemption of tax-exemption stamps from claims of creditors; issuance to heirs of deceased producer
- 811 Packaging, affixing tax or tax-exemption stamps.
- 812 Rules and regulations of Commissioner of Internal Revenue
- 813 Rules and regulations of Secretary of Agriculture.
- 814 Returns, information, and records; penalty for refusal to make or falsifying.

## Section

- 815 Refunds; time limit for filing claims or bringing suits
- 816 Appropriation
- 817 Exemption from tax and packaging of potato products and potatoes for feeding livestock when of low value.
- 818 Officers and employees
- 819 Utilization and establishment of committees and associations of producers, advancement of funds
- 820 Selling or buying unpackaged or unstamped potatoes; penalty
- 821 Speculation in tax-exemption stamps; securing stamps by fraud; penalty
- 822 Destruction of stamps on emptied container.
- 823 Violation of chapter generally; penalty.
- 824 Violation of regulations; penalty.
- 825 Application of revenue laws
- 826 Books and records
- 827 Assessment of unpaid taxes.
- 828 Exemption from tax of potatoes for export.
- 829 Import quotas, establishment
- 830 Tax on imports above quota
- 831 Import potatoes to be packaged
- 832 Exemption potatoes imported from Cuba
- 833 Citation of chapter

§ 801. Definitions. When used in this chapter, unless the context otherwise requires—

(a) The term "person" includes an individual, a corporation, a partnership, a business trust, a joint-stock company, an association, a syndicate, group, pool, joint venture, or any other unincorporated organization or group.

(b) The term "Commissioner" means the Commissioner of Internal Revenue.

(c) The term "collector" means a collector of internal revenue.

(d) The term "sale" includes any agreement or delivery whereby the seller transfers the property in, or right to consume, potatoes to another for a consideration, and any sum of money, services, property, or anything of value whatsoever, may constitute consideration for such transfer, but does not include the transfer of the right to consume potatoes to a member of the household of a producer of such potatoes or a transfer for consumption by the household of a person employed in the farming operations of the producer of such potatoes.

(e) The term "allotment year" means the period commencing December 1 and ending November 30. *Provided*, That the first allotment year shall commence December 1, 1935, and shall end November 30, 1936

(f) The term "change in the form of potatoes" means an intentionally effected change in the form of potatoes in preparation for the sale of such potatoes, or any product thereof, as such change is defined by rules and regulations prescribed by the Commissioner, with the approval of the Secretary of the Treasury.

(g) The term "tax stamp" means an appropriate stamp or other means of identifying potatoes with respect to which a tax levied by this title has been paid.

(h) The term "tax-exemption stamp" means an appropriate stamp or other means of identifying potatoes with respect to which an exemption from a tax levied by this title has been established.

(i) The term "potatoes" means all varieties of potatoes included in the species *Solanum tuberosum*.

(j) The term "producer" means a person who has the right to sell, or to receive a share of the proceeds derived from the sale of, potatoes cultivated by him, or on land owned or leased by him.

(k) The term "continental United States" means the several States of the United States and the District of Columbia and does not include any Territory or possession of the United States.

(l) The term "operator" means any person operating his own farm, any tenant operating a farm rented for cash or for a fixed-commodity payment, any crop-share tenant, and any crop-share landlord.

(m) The term "farm" means all the land operated by the producer as a single operating unit with work stock, farm machinery, and labor substantially separate from that of any other tract of land. (Aug. 24, 1935, c. 641, § 201, 49 Stat. 782.)

§ 802. Imposition of tax; yearly referendum of producers; tax stamps. (a) There is hereby levied and assessed upon each first sale of potatoes harvested on or after December 1, 1935, in the continental United States a tax, to be paid by the seller, at the rate of three-fourths of 1 cent per pound: *Provided*, That when there is a change in the form of potatoes harvested on or after December 1, 1935, in the continental United States prior to the first sale thereof, a tax at the rate of three-fourths of 1 cent per pound, to be paid by the owner at the time such change is effected, is hereby levied and assessed upon the effecting of such change, and no tax shall be levied upon the first sale of such potatoes or any product or products thereof

(b) If the Secretary of Agriculture finds at any time that the total apportionments to producers in any potato-producing region or regions (as established and defined pursuant to subsection (c) of section 809 of this title) are in excess of the probable supply of potatoes in the continental United States during the marketing periods for such region or regions, he shall proclaim such determination, and the provisions of this title shall not be operative during such marketing periods.

(c) At least thirty days prior to the beginning of each allotment year after the first allotment year, the Secretary of Agriculture shall conduct a referendum which will afford to producers of potatoes a reasonable opportunity to vote in favor of or in opposition to continuing in effect with respect to potatoes produced during the succeeding allotment year the taxes levied by subsection (a) of this section. Each producer who is entitled to an allotment for the last allotment year for which such apportionments were made shall be entitled to one vote; and such taxes shall not be in effect and the provisions of this title shall not be operative with respect to potatoes produced in such succeeding year unless the majority of the votes cast in such referendum are cast in favor of continuing such taxes in effect.

(d) If the Secretary of Agriculture determines and proclaims that the taxes levied by subsection (a) of this section will at the rate therein specified for such taxes, (1) tend to adversely affect the orderly marketing of potatoes, or (2) tend to depress the farm price of potatoes, or (3) tend to cause to producers of potatoes disadvantages in competition by reason of an excessive shift in consumption from potatoes to some other commodity or commodities, then the rate of such taxes shall for such period as the Secretary of Agriculture designates, be at the highest rate which is lower than three-fourths of 1 cent (not less than one-half of 1 cent per pound) as he finds and proclaims will not adversely affect such orderly marketing, or cause such depression of the farm price, or cause such disadvantages in competition.

(e) The taxes levied by subsection (a) of this section shall be represented by tax stamps, and the proceeds of taxes levied under this title shall be paid into the Treasury of the United States as internal revenue collections

(f) The Commissioner shall cause to be prepared, for the payment of such taxes, tax stamps of suitable denominations and shall furnish same to the collectors of internal revenue. The Commissioner shall also furnish to the Postmaster General without prepayment a suitable quantity of such stamps to be distributed to, and kept on sale by, the various postmasters in the United States. The Postmaster General may require each such postmaster to give additional or increased bond as postmaster for the value of the stamps so furnished, and each such postmaster shall deposit the receipts from the sale of such stamps to the credit of, and render accounts to, the Postmaster General at such times and in such form as he may by regulations prescribe. The Postmaster General shall at least once monthly transfer all collections from this source to the Treasury as internal revenue collections. (Aug. 24, 1935, c. 641, § 202, 49 Stat. 783.)



**§ 803. Determination of allotment.** The Secretary of Agriculture shall investigate probable production and market conditions for each allotment year and shall determine from available statistics of the Department of Agriculture and proclaim, at least thirty days prior to the beginning of each allotment year, the quantity of potatoes which, if produced during such year and sold during or after such year, will, in his opinion, tend to establish and maintain such balance between the production, sale, and consumption of potatoes and the marketing conditions therefor as will, in his opinion, tend to establish prices to potato producers at a level that would give potatoes a purchasing power with respect to articles that farmers buy equivalent to the purchasing power of potatoes in the period August 1919–July 1929 without reducing the total net income of potato producers from potatoes below the largest probable income of potato producers from potatoes produced during such allotment year, and without tending to cause to producers of potatoes disadvantages in competition by reason of an excessive shift in consumption from potatoes to some other commodity or commodities; and the quantity so proclaimed shall, for each allotment year, be apportioned by the Secretary of Agriculture as hereinafter provided (Aug. 24, 1935, c. 641, § 203, 49 Stat. 734.)

**§ 804. Apportionment of allotment to states.** When a quantity is determined in accordance with section 803 of this title, the Secretary of Agriculture shall apportion such quantity among the several States. The apportionment to each State shall be determined on the basis of the ratio that the annual average acreage of the four years in which the highest potato acreage was harvested in such State in the years 1927–1934, inclusive, multiplied by the average yield per acre for the four years that the yield of potatoes per acre for such State was highest in the years 1927–1934, inclusive, multiplied by the average annual percentage of the crop produced in such State during the years 1929–1934, inclusive, which was sold, bears to the sum of the products of such average acreages, such average yields, and such percentages of sales for all States: *Provided*, That if the Secretary of Agriculture finds that the application of the foregoing formula alone would, because of differences in production practices and marketing practices among the several States, result in an inequitable and unfair apportionment to any State or States, not in excess of 2 per centum of the quantity of potatoes determined in accordance with section 803 of this title may be deducted from such quantity and may be used by the Secretary of Agriculture to adjust on the basis of equity and fairness the apportionments made or to be made to any State or States (Aug. 24, 1935, c. 641, § 204, 49 Stat. 734.)

**§ 804a. Periodical adjustment of allotments.** The quantity determined and proclaimed by the Secretary of Agriculture pursuant to section 803 of this title, and the quantity apportioned to each State pursuant to section 804 of this title, may at such intervals as the Secretary of Agriculture finds necessary to effectuate the declared policy and purposes of this chapter be adjusted by him: *Provided*, That the quantity so determined and proclaimed shall not be increased or decreased by more than 5 per cent. (Aug. 24, 1935, c. 641, § 204a, 49 Stat. 735.)

**§ 805. Apportionment of allotments to farms.** Ninety-five per centum of the quantity of potatoes apportioned to any State pursuant to section 804 of this title shall be apportioned by the Secretary of Agriculture to farms on which potatoes have been grown within such State during any one or more years within the period 1932–1934, inclusive. Such apportionment to any farm shall be made upon application therefor and may, in order to secure equitable apportionments to producers, be made by the Secretary based upon either—

(1) A percentage of the average sales of potatoes produced on such farm for a representative base period, prescribed by the Secretary, of any two or more

years during the years 1932–1934, inclusive, providing the operators of such farm for the allotment year for which the apportionment is made produced potatoes on such farm during at least one of the base-period years. The representative base period prescribed by the Secretary and the percentage applied to the average sales of potatoes produced during such period in establishing apportionments for each farm under this paragraph shall, so far as practicable, be uniform for farms similarly situated upon the basis or classification prescribed by the Secretary of Agriculture, but in the case of any farm for which such average sales are 300 pounds or less, such average sales shall be exempt from any percentage reduction thereof and such farm shall receive an apportionment equal to such average sales; or,

(2) Such basis as the Secretary of Agriculture deems fair and just and will apply to all farms to which an apportionment is made under this paragraph 2 uniformly on the basis or classification adopted. In making an apportionment to a farm under this paragraph, due consideration shall be given to the quantity of potatoes produced and sold in the past by the operators who will operate such farm for the allotment year for which the apportionment is made, the quantity of potatoes produced on such farm and sold in the past, and the acreage of the farm available for the production of potatoes and which the operators are currently equipped to devote to the production of potatoes. (Aug. 24, 1935, c. 641, § 205, 49 Stat. 735.)

**§ 806. Apportionment to farms ineligible under section 805.** Not in excess of 5 per centum of the quantity of potatoes apportioned to any State pursuant to section 804 of this title shall, upon application therefor, be available for apportionment by the Secretary of Agriculture to farms operated by persons engaged or evidencing a desire to engage in the production and sale of potatoes in such State and which farms are ineligible to receive an apportionment under section 805 of this title or in respect to which the Secretary of Agriculture determines that the apportionments made pursuant to section 805 of this title are inequitable: *Provided*, That apportionments under this section shall be made upon such basis as the Secretary of Agriculture deems fair and just and which will, so far as practicable, apply to all such farms uniformly upon the basis or classification prescribed by the Secretary. Any quantity not apportioned under this section shall be available for apportionment under section 805 of this title. (Aug. 24, 1935, c. 641, § 206, 49 Stat. 735.)

**§ 807. Apportionment for succeeding allotment years to farms designated under section 806.** If an apportionment is made to a farm under section 806 of this title for any allotment year, for each succeeding allotment year that the operation of such farm is continued by the operators who operated it during the allotment year for which such apportionment was made, the apportionment to such farm shall be made upon the basis provided in section 806 of this title but shall be made from the quantity available for apportionment under section 805 of this title. (Aug. 24, 1935, c. 641, § 207, 49 Stat. 736.)

**§ 808. District of Columbia deemed part of Maryland.** For the purposes of the apportionments to be made pursuant to sections 804, 805, 806, and 807 of this title, the District of Columbia shall be considered as a part of the State of Maryland (Aug. 24, 1935, c. 641, § 208, 49 Stat. 736.)

**§ 809. Exemption from taxation; tax-exemption stamps; assignment or transfer of stamps.** (a) The Secretary of Agriculture, or any agent or agency designated for such purpose by the Secretary of Agriculture, shall, upon application therefor, issue for each farm tax-exemption stamps for an amount of potatoes equal to the apportionment made to such farm pursuant to sections 805, 806 and 807 of this title: *Provided*, That under such regulations as the Secretary of Agriculture shall prescribe he shall refuse to

issue such tax-exemption stamps to any applicant in any allotment year in which such applicant is not a bona fide producer of potatoes. Each such tax-exemption stamp, during the period of its validity as determined pursuant to subsection (c) of this section, shall establish an exemption from the taxes imposed by subsection (a) of section 802 of this title for the amount of potatoes stated on the face of each such stamp.

(b) The right to tax-exemption stamps shall be evidenced in such manner as the Secretary of Agriculture may by regulations prescribe, and such tax-exemption stamps shall be issued in such form or forms, and under such terms and conditions as may be prescribed jointly by the Secretary of Agriculture and the Secretary of the Treasury.

(c) The Secretary of Agriculture shall establish and define potato-producing regions for the continental United States upon the basis of the marketing periods for potatoes produced in such regions during an allotment year, and shall from time to time by regulation and upon the basis of such marketing periods for each such region, determine and fix the period during which tax-exemption stamps issued, or pursuant to subsection (g) of this section transferred, to producers in such regions for any allotment year shall be valid, provided that all tax-exemption stamps shall be valid for a period of at least the allotment year for which they are issued.

(d) If any tax-exemption stamp is erroneously issued, the person to whom such stamp is so issued shall, upon demand by the Secretary of Agriculture in writing and mailed to the last-known address of such person, be obligated to return such stamp or pay to the Secretary a sum equal to the amount of the taxes imposed by subsection (a) of section 802 of this title upon the amount of potatoes covered by such stamp, at the rate in effect at the time such stamp was issued.

(e) Any sale, assignment, pledge, or transfer, and any agreement or power of attorney to sell, assign, apply, pledge, or transfer made or entered into by any person of his right to or claim for tax-exemption stamps or any part thereof not accompanied by actual delivery of such stamps shall, for all purposes, be null and void; except agreements between landlords and share-tenants or share-croppers which, in accordance with such regulations as the Secretary of Agriculture shall prescribe, provide for a division of the tax-exemption stamps received or to be received by any such landlord, any such share-tenant or any such share-cropper, or any or all of them, in accordance with their respective shares in the potatoes or the proceeds thereof to be produced by them.

(f) Where a farm is operated by share-tenants, or with the aid of share-croppers, tax-exemption stamps issued for an apportionment made to such farm shall be used by the landlord, the share-tenants, and/or the share-croppers in accordance with their respective shares in the potatoes produced on such farm, during the allotment year for which such apportionment is made, or the proceeds of such potatoes, and the Secretary of Agriculture shall issue regulations protecting the interests of share-croppers and tenants in the issuance and use of such tax-exemption stamps.

(g) If accompanied by delivery thereof, tax-exemption stamps may be transferred or assigned in such manner and upon such terms and conditions, including conditions governing the consideration which must be given therefor, as the Secretary of Agriculture may determine are reasonably necessary to prevent (1) transfers and assignments which would tend to depress the market price for potatoes produced in any potato-producing area, (2) speculation in tax-exemption stamps, or (3) fraud or coercion in the transfer of such stamps, or which the Secretary of Agriculture finds to be necessary or desirable to facilitate the identification of tax-paid or tax-exempt potatoes or which the Secretary of Agriculture finds to be necessary or desirable to protect the interests of tenants and share-croppers in the issuance and

use of tax-exemption stamps. (Aug. 25, 1935, c. 641, § 209, 49 Stat. 786.)

§ 810. **Exemption of tax-exemption stamps from claims of creditors; issuance to heirs of deceased producer.** Tax-exemption stamps issued to a person, and a person's right to and claim for, tax-exemption stamps shall be exempt from the claims of the creditors of such person and from any and all process for the enforcement of such claims. The Secretary of Agriculture shall by regulation provide for the issuance to, and/or use by, the person who by devise bequest, or descent becomes the owner of potatoes planted by a person dying during an allotment year, of the tax-exemption stamps which have been, or would have been, issued to such deceased person for such allotment year. (Aug. 24, 1935, c. 641, § 210, 49 Stat. 787.)

§ 811. **Packaging; affixing tax or tax-exemption stamps.** (a) To facilitate the collection of the tax upon the first sale of potatoes imposed by subsection (a) of section 802 of this title, all potatoes harvested on and after December 1, 1935, and sold in the continental United States, during any period such tax is in effect, shall, in accordance with such rules and regulations as the Commissioner with the approval of the Secretary of the Treasury shall prescribe, be packed in closed and marked containers to which shall be attached or affixed tax stamps or tax-exemption stamps equal in face value to the amount of tax per pound in effect on the potatoes contained therein: *Provided*, That, subject to such regulations as the Commissioner with the approval of the Secretary of the Treasury may prescribe, packaging may be postponed beyond the time of the first sale of potatoes which are to be stored in bulk, or which are to be graded, at such places as may be designated by regulations prescribed by the Commissioner with the approval of the Secretary of the Treasury. The time and method of such packaging and the time and method of attaching or affixing such stamps and the time and circumstances under which packages may be broken shall be established in accordance with such regulations as the Commissioner, with the approval of the Secretary of the Treasury, may prescribe as desirable or necessary to facilitate the collection of the taxes levied by this title. In prescribing and approving rules and regulations for the packaging of potatoes and the attaching or affixing of stamps, the Commissioner and the Secretary of the Treasury shall give due weight to the customs of the industry.

(b) To facilitate the collection of the tax upon a change in the form of potatoes imposed by subsection (a) of section 802 of this title, the Commissioner, with the approval of the Secretary of the Treasury, is authorized by regulation to prescribe appropriate means of identifying potatoes, the change of form of which is subject to such tax, and for the identification of the products of such potatoes (Aug. 24, 1935, c. 641, § 211, 49 Stat. 787.)

§ 812. **Rules and regulations of Commissioner of Internal Revenue.** The Commissioner, with the approval of the Secretary of the Treasury, shall prescribe and publish such rules and regulations as he may deem needful in administering provisions of this chapter relating to the revenue including rules and regulations for the issue, sale, custody, production, cancellation, destruction, and disposition of tax stamps and the cancellation and destruction of tax-exemption stamps, and the substitution or replacement of tax stamps in cases of loss, destruction, or defacement thereof. (Aug. 24, 1935, c. 641, § 212, 49 Stat. 788.)

§ 813. **Rules and regulations of Secretary of Agriculture.** The Secretary of Agriculture is authorized to make such rules and regulations as may be necessary to carry out the powers vested in him by the provisions of this chapter. (Aug. 24, 1935, c. 641, § 213, 49 Stat. 788.)

§ 814. **Returns, information and records; penalty for refusal to make or falsifying.** (a) All producers.



warehousemen, processors, carriers, retailers, factors, handlers, and any other person who the Commissioner has reason to believe to have information with respect to potatoes produced, or sold, or subject to a tax on a change in the form of potatoes, may be required, under regulations prescribed jointly by the Secretary of the Treasury and the Secretary of Agriculture, to make such returns, render such statements, give such information, and keep such records as they may deem necessary for the proper administration of this title.

(b) Any person willfully failing or refusing to file such a return, render such statement, give such information, or keep such records, or filing a willfully false return, or rendering or giving willfully false statements or information or willfully keeping false records, shall be guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of not more than \$1,000 or by imprisonment not exceeding one year, or both. (Aug. 24, 1935, c. 641, § 214, 49 Stat. 788.)

**§ 815. Refunds; time limit for filing claims or bringing suits.** (a) No refund of any tax, penalty, interest, or sum of money paid shall be allowed under this title unless claim therefor is presented within one year after the date of payment of such tax, penalty, interest, or sum.

(b) No suit or proceeding shall be maintained in any court for the recovery of any tax under this chapter alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessive or in any manner illegally or wrongfully collected until a claim for refund or credit has been duly filed with the Commissioner according to the provisions of law in that regard and the regulations of the Secretary of the Treasury established in pursuance thereof. No suit or proceeding shall be begun before the expiration of six months from the date of filing such claim unless the Commissioner renders a decision thereon within that time, nor after the expiration of two years from the date of payment of such tax, penalty, or sum, unless such suit or proceeding is begun within two years after the disallowance of the part of such claim to which such suit or proceeding relates. The Commissioner shall, within ninety days after such disallowance, notify the taxpayer thereof by registered mail.

(c) The amount of the taxes imposed by subsection (a) of section 802 of this title, paid by a person, which taxes would not have been paid had the tax-exemption stamps to which such person was entitled been delivered to such person prior to the payment of such taxes, shall be refunded to such person. (Aug. 24, 1935, c. 641, § 215, 49 Stat. 788.)

**§ 816. Appropriation.** (a) The proceeds derived from the taxes imposed by this chapter are hereby authorized to be appropriated to be available to the Secretary of Agriculture for administrative expenses, for all purposes of the sections 601 to 624 of this title, for refunds of taxes and for other payments under this chapter. The Secretary of Agriculture and the Secretary of the Treasury shall estimate from time to time the amount of taxes which will be collected under this chapter during a period following any such estimate not in excess of four months, and the Secretary of the Treasury shall, out of any money in the Treasury not otherwise appropriated, advance to the Secretary of Agriculture the amounts so estimated. The amount of any such advance shall be deducted from such tax proceeds as shall subsequently become available under this subsection: *Provided*, That all taxes imposed by section 830 of this title, collected upon potatoes coming from the possessions or territories of the United States, shall not be covered into the general fund of the Treasury of the United States but shall be held as a separate fund and paid into the treasuries of the said possessions and territories, respectively, to be used and expended by the governments thereof for the benefit of agriculture.

(b) The administrative expenses provided for under this section shall include, among others, expenditures for personal services and rent in the District of Columbia and elsewhere, for law books, periodicals, newspapers, and books of references, for contract stenographic reporting services, for the purchase or hire of vehicles, including motor vehicles, and for printing and paper in addition to allotments under the existing law.

(c) The Secretary of Agriculture may advance or transfer to the Treasury Department, to the Post Office Department, and to any other department or agency, out of funds available for administrative expenses under this chapter, such sums as are required to pay administrative expenses of, and refunds made by, such departments or agencies in the administration of this chapter.

(d) There is hereby authorized to be appropriated to be available to the Secretary of Agriculture such sums as may be necessary for administrative expenses, for refunds of taxes, and for other advances or payments under this chapter. (Aug. 24, 1935, c. 641, § 216, 49 Stat. 789.)

**§ 817. Exemption from tax and packaging of potato products and potatoes for feeding livestock when of low value.** If at any time the Secretary of Agriculture finds that any product or products manufactured from potatoes is of such low value, considering the quantity of potatoes used for its manufacture, that the imposition of the taxes imposed by subsection (a) of section 802 of this title would prevent wholly or in large part the use of potatoes in the manufacture of such product or products or that potatoes used for the feeding of livestock are of such low value that the imposition of such taxes would prevent wholly or in large part the sale of potatoes for any such use, the Secretary of Agriculture shall proclaim such finding and thereafter in accordance with regulations prescribed jointly by the Secretary of Agriculture and the Secretary of the Treasury, the sale, or change in form, of potatoes for such use or uses by the purchaser thereof shall be exempt from the provisions of subsection (a) of section 811 of this title, and from the taxes imposed by subsection (a) of section 802 of this title until such time as the Secretary of Agriculture, after further investigation and due notice and opportunity for hearing to the interested parties, revokes such proclamation: *Provided*, That the right to any such exemption shall be evidenced in such manner as joint regulations of the Secretary of Agriculture and the Secretary of the Treasury shall prescribe. If such purchaser uses any potatoes sold to him free of tax under this section or uses any product of such potatoes, for other than an exempt use as above specified, then he shall be liable for a tax in the same manner as if such potatoes were sold by him at a first sale. (Aug. 24, 1935, c. 641, § 217, 49 Stat. 789.)

**§ 818. Officers and employees.** The Secretary of Agriculture is authorized, in order to carry out the provisions of this chapter, to appoint, without regard to the provisions of the civil-service law, such officers, agents, and employees and to utilize such Federal officers and employees and, with the consent of the State, such State and local officers and employees, as he may find necessary, to prescribe their authorities, duties, responsibilities, and tenure, and, without regard to sections 661 to 674 of Title 5, to fix the compensation of any officers, agents, and employees so appointed. (Aug. 24, 1935, c. 641, § 218, 49 Stat. 790.)

**§ 819. Utilization and establishment of committees and associations of producers; advancement of funds.**

(a) For the more effective administration of the functions vested in him by this chapter, the Secretary of Agriculture is authorized to utilize committees and associations heretofore or hereafter established pursuant to subsection (b) of section 610 of this title, and to establish regional, State, and local committees and associations of producers of potatoes.

(b) The Secretary of Agriculture, out of any funds appropriated for administrative expenses under this title, is authorized to advance funds to the proper fiscal officer of associations established or utilized pursuant to subsection (a) of this section, for expenses incurred or to be incurred in the administration of this title, with the approval of the Secretary of Agriculture by such associations. Payment of such expenses of such associations shall be made upon such evidence and in such manner and at such time or times as the Secretary of Agriculture may direct, and the accounting therefor by the associations shall be solely administrative and to the Secretary of Agriculture only. (Aug. 24, 1935, c. 641, § 219, 49 Stat. 790.)

**§ 820. Selling or buying unpackaged or unstamped potatoes; penalty.** Any person who knowingly sells, or offers for sale, or knowingly offers to buy, or buys, potatoes not packaged as required by this chapter, or any person who knowingly sells, or offers for sale, or who knowingly offers to buy, or buys, potatoes to the packages of which are not affixed or attached tax-exemption stamps or tax stamps as required by this chapter shall, upon conviction thereof, be fined not more than \$1,000. Any person convicted of a second offense under the provisions of this chapter may, in addition to such fine, be imprisoned for not more than one year. (Aug. 24, 1935, c. 641, § 220, 49 Stat. 790.)

**§ 821. Speculation in tax-exemption stamps; securing stamps by fraud; penalty.** Any person who, in violation of the regulations made by the Secretary of Agriculture, speculates in tax-exemption stamps, and any person securing tax-exemption stamps from another person by fraud or coercion, shall, upon conviction thereof, be fined not more than \$1,000 or sentenced to not more than one year's imprisonment, or both. (Aug. 24, 1935, c. 641, § 221, 49 Stat. 790.)

**§ 822. Destruction of stamps on emptied container.** Whenever any potato container, to which are affixed tax stamps or tax-exemption stamps, is emptied, it shall be the duty of the person in whose hands the same is to destroy utterly the stamps affixed thereto. Any revenue officer may destroy the tax stamps or tax-exemption stamps affixed to any emptied potato package. (Aug. 24, 1935, c. 641, § 222, 49 Stat. 791.)

**§ 823. Violation of chapter generally; penalty.** Any person who willfully violates any provision of this chapter, or who willfully fails to pay, when due, any tax imposed under this chapter, or who, with intent to defraud, falsely makes, forges, orders, or counterfeits any tax stamps or tax-exemption stamps made or used under this chapter or who uses sells, or has in his possession any such forged, ordered, or counterfeited tax stamps or tax-exemption stamps or any plate or die used, or which may be used in the manufacture thereof, or has in his possession any tax stamp or tax-exemption stamp which should have been destroyed as required by this chapter, or who makes, uses, sells, or has in his possession, any paper in imitation of the paper or other substance used in the manufacture of any such tax stamp or tax-exemption stamp, or who reuses any tax stamp or tax-exemption stamp required to be destroyed by this chapter, or who places any potatoes in any package which has been theretofore filled or stamped or otherwise identified under this chapter without destroying the tax stamps and tax-exemption stamps previously affixed to such package, or who gives away or accepts from another or who sells or buys any emptied package which had been previously filled and stamped or otherwise identified under this chapter without destroying the tax stamps and tax-exemption stamps previously affixed or attached to such package, or who makes any false statement in any application for tax-exemption stamps under this chapter, or who has in his possession any tax-exemption stamps or tax stamps, obtained by him otherwise than as provided in this title, shall, upon conviction, be

punished by a fine not exceeding \$1,000 or by imprisonment for not exceeding six months, or both. (Aug. 24, 1935, c. 641, § 223, 49 Stat. 791.)

**§ 824. Violation of regulations; penalty.** Any person who willfully violates any regulation issued or approved pursuant to this chapter, for the violation of which a special penalty is not provided by law, shall, upon conviction thereof, be punished by a fine not exceeding \$200. (Aug. 24, 1935, c. 641, § 224, 49 Stat. 791.)

**§ 825. Application of revenue laws.** All provisions of law, including penalties, applicable with respect to the taxes imposed by sections 1120 and 901 to 906, 908 and 921b (3) of Title 26, except section 835 (a) (1) (3), 837, 1125 and 1352a of Title 26, and except section 614 of the Revenue Act of 1932 [§ 1481, Title 26, note] shall, insofar as applicable and not inconsistent with the provisions of this chapter, be applicable with respect to all taxes imposed by this chapter. (Aug. 24, 1935, c. 641, § 225, 49 Stat. 791.)

**§ 826. Books and records.** In order to facilitate the making of apportionments and the collection of the taxes imposed by this chapter, every producer who sells potatoes during any allotment year, or who affects a change in the form of potatoes, shall keep such books and records as the Commissioner, with the joint approval of the Secretary of the Treasury and the Secretary of Agriculture, shall by regulations require and such books and records shall be open to inspection by any authorized agent of the Secretary of Agriculture or the Commissioner. (Aug. 24, 1935, c. 641, § 226, 49 Stat. 791.)

**§ 827. Assessment of unpaid taxes.** Whenever any potatoes, upon the sale of which a tax is required to be paid, are sold, without the use of the proper stamps, or whenever a change in the form of potatoes upon which a tax is required to be paid occurs, without the payment of such tax, it shall be the duty of the Commissioner, within a period of not more than two years after such sale or change in the form, upon satisfactory proof, to estimate the amount of the tax which has been omitted to be paid, and to make the assessment therefor, and certify the same to a collector. The tax so assessed shall be in addition to the penalties imposed by law. (Aug. 24, 1935, c. 641, § 227, 49 Stat. 791.)

**§ 828. Exemption from tax of potatoes for export.** Under such rules and regulations as the Commissioner, with the approval of the Secretary of the Treasury, may prescribe, the taxes imposed under subsection (a) of section 802 of this title shall not apply in respect to potatoes sold for export to any foreign country or for shipment to a possession or Territory of the United States, and in due course so exported or shipped. Under such rules and regulations the amount of any such tax erroneously or illegally collected in respect to such potatoes so exported or shipped may be refunded to the exporter or shipper of the potatoes instead of the taxpayer if the taxpayer waives any claim for the amount so to be refunded. (Aug. 24, 1935, c. 641, § 228, 49 Stat. 792.)

**§ 829. Import quotas; establishment.** In order to secure equality between domestic and foreign producers of potatoes and in order to prevent the taxes imposed by subsection (a) of section 802 of this title from resulting in disadvantages to producers of potatoes in the continental United States, the Secretary of Agriculture is hereby authorized and directed to, from time to time by orders and regulations—

(a) For each allotment year or any part thereof that the taxes imposed by subsection (a) of section 802 of this title are in effect, establish quotas for the entry or the importation into the continental United States of potatoes produced in any Territory or possession of the United States, or any foreign country. Such quotas shall be based upon that percentage of the annual average quantity of such potatoes brought

or imported into the continental United States during the years 1929-1934, inclusive, which is equal to the percentage that the quantity proclaimed by the Secretary of Agriculture under section 803 of this title is of the annual average of the quantities of potatoes sold in the continental United States during the years 1929-1934, inclusive (Aug. 24, 1935, c. 641, § 229, 49 Stat. 792.)

§ 830. Tax on imports above quota. After such quotas have been established, potatoes imported or brought into the continental United States in excess of any such quotas shall, in addition to any import duties, be subject to an internal-revenue tax equal to the amount of the tax then in effect on the first sale of potatoes produced and sold in the continental United States. The tax levied by this section shall be represented by tax stamps and shall be paid by the owner or importer prior to release from customs custody and control, or entry into the continental United States. (Aug. 24, 1935, c. 641, § 230, 49 Stat. 792.)

§ 831. Import potatoes to be packaged. During any period the tax imposed by subsection (a) of section 802 of this title is in effect all potatoes imported or brought into the continental United States from any possession or Territory of the United States or from any foreign country shall, prior to release from customs custody and control, in accordance with such rules and regulations as the Commissioner, with the approval of the Secretary of the Treasury, shall prescribe as necessary or desirable to facilitate the collection of the taxes levied by this chapter, be packed in closed and marked containers. The time and method of such packaging and the time and method of attaching or affixing the stamps required by the preceding section shall be established in accordance with such regulations as the Commissioner shall prescribe. All sales of such potatoes, after release thereof from customs custody and control or entry in the continental United States, shall be in packages in the same manner and under the same terms and conditions as required for the sales of potatoes harvested and sold in the continental United States. (Aug. 24, 1935, c. 641, § 231, 49 Stat. 792.)

§ 832. Exemption potatoes imported from Cuba. The provisions of sections 829 and 830 of this title shall not be applicable to potatoes produced in the Republic of Cuba and imported and entered for consumption into the continental United States during the period from December 1 to the last day of the following February, inclusive, in any years: *Provided*, That if the Secretary of Agriculture at any time finds that the importation of potatoes from the Republic of Cuba during such period is, or threatens to result in, unduly depressing the potato market in or for any potato-producing area of the continental United States, he shall proclaim such findings and the provisions of sections 829 and 830 of this title shall be applicable to all potatoes thereafter imported into the continental United States from the Republic of Cuba. (Aug. 24, 1935, c. 641, § 232, 49 Stat. 793.)

§ 833. Citation of chapter. This chapter may be cited as the "Potato Act of 1935" (Aug. 24, 1935, c. 641, § 233, 49 Stat. 793.)

## Chapter 30.—ANTI-HOG-CHOLERA SERUM AND HOG-CHOLERA VIRUS

Sec.

- 851. Declaration of policy.
- 852. Marketing agreements with handlers; exemption from antitrust laws.
- 853. Terms and conditions of marketing agreements.
- 854. Order regulating handlers; issuance and terms.
- 855. Applicability of other laws.

§ 851. Declaration of policy. It is hereby declared to be the policy of Congress to insure the maintenance of an adequate supply of anti-hog-cholera serum and hog-cholera virus by regulating the marketing of such serum and virus in interstate and foreign commerce, and to prevent undue and excessive fluctuations and unfair methods of competition and unfair trade practices in such marketing. (Aug. 24, 1935, c. 641, § 56, 49 Stat. 781.)

§ 852. Marketing agreements with handlers; exemption from antitrust laws. In order to effectuate the policy declared in section 851 of this title the Secretary of Agriculture shall have the power, after due notice and opportunity for hearing, to enter into marketing agreements with manufacturers and others engaged in the handling of anti-hog-cholera serum and hog-cholera virus only with respect to such handling as is in the current of interstate or foreign commerce or which directly burdens, obstructs, or affects interstate or foreign commerce in such serum and virus. Such persons are in section 854 of this title referred to as "handlers." The making of any such agreement shall not be held to be in violation of any of the antitrust laws of the United States, and any such agreement shall be deemed to be lawful. (Aug. 24, 1935, c. 641, § 57, 49 Stat. 781.)

§ 853. Terms and conditions of marketing agreements. Marketing agreements entered into pursuant to section 852 of this title shall contain such one or more of the following terms and conditions and no others as the Secretary finds, upon the basis of the hearing provided for in section 852 of this title, will tend to effectuate the policy declared in section 851 of this title of this Act:

(a) One or more of the terms and conditions specified in subsection (7) of section 608c of this title.

(b) Terms and conditions requiring each manufacturer to have available on May 1 of each year a supply of completed serum equivalent to not less than 40 per centum of his previous year's sales. (Aug. 24, 1935, c. 641, § 58, 49 Stat. 781.)

§ 854. Order regulating handlers; issuance and terms. Whenever all the handlers of not less than 75 per centum of the volume of anti-hog-cholera serum and hog-cholera virus which is handled in the current of interstate or foreign commerce, or so as directly to burden, obstruct, or affect interstate or foreign commerce, have signed a marketing agreement entered into with the Secretary of Agriculture pursuant to section 852 of this title, the Secretary of Agriculture shall issue an order which shall regulate only such handling in the same manner as, and contain only such terms and conditions as are contained in such marketing agreement, and shall from time to time amend such order in conformance with amendments to such marketing agreement. Such order shall terminate upon termination of such marketing agreement as provided in such marketing agreement. (Aug. 24, 1935, c. 641, § 59, 49 Stat. 781.)

§ 855. Applicability of other laws. Subject to the policy declared in section 851 of this title, the provisions of subsections (6), (7), (8), and (9) of section 608a and of subsections (14) and (15) of section 608c of this title, are made applicable in connection with orders issued pursuant to section 854 of this title, and the provisions of section 608d of this title are hereby made applicable in connection with marketing agreements entered into pursuant to section 852 of this title and orders issued pursuant to section 854 of this title. The provisions of subsections (a), (b) (2), (c), (f), (h), and (i) of section 610 of this title, as amended, are hereby made applicable in connection with the administration of this chapter. (Aug. 24, 1935, c. 641, § 60, 49 Stat. 782.)



## TITLE 8—ALIENS AND CITIZENSHIP

### Chapter 6.—IMMIGRATION

#### IMMIGRATION AND NATURALIZATION SERVICE, IMMIGRATION OFFICERS, AND IMMIGRATION STATIONS

##### § 109. Former Bureau of Immigration.

"Mar 3, 1913" in the citation should read "Mar 4 1913."

##### § 106a. Registry of aliens entering prior to June 3, 1921 or June 8, 1934.

Apr 19, 1934, c 155, § 5" in citation should read Apr 19, 1934, c. 154, § 6"

##### § 117. Use of hospital at Ellis Island by Public Health Service.

Repeated, Act May 14, 1935, c 110, § 1, 49 Stat 229.

### Chapter 7.—EXCLUSION OF CHINESE

##### § 265. Chinese other than laborers; certificates of identity.

"World" in second column, line 5, should be "word"

### Chapter 9.—NATURALIZATION

#### GENERAL AND SPECIFIC LIMITATIONS OF NATURALIZATION

##### § 359. Racial limitation of naturalization; free white persons and Africans.

For exception to this section in case of World War veterans, see section 392e of this title

#### PERSONS INADMISSIBLE TO CITIZENSHIP

##### § 363. Persons inadmissible to citizenship; Chinese.

For exception to this section in case of World War veterans, see section 392e of this title.

#### NATURALIZATION OF WOMEN

##### § 368b. Same; Hawaiian woman residing in the United States.

The word "of" at the end of line 2 should be omitted

#### NATURALIZATION PROCEEDINGS IN GENERAL

##### § 376. Same; alien seamen declarants deemed citizens for purposes of protection. [Repealed]

This section (June 29, 1906, c 3592, § 4 [8], as amended May 9, 1918, c 69, § 1, 40 Stat 544) is repealed by Act June 15, 1935, c. 255, § 1, 49 Stat. 376. By section 2 of repealing act the repeal takes effect ninety days after June 15, 1935

##### § 392b. Alien veterans residing in United States; terms, conditions and exemptions affecting naturalization.

(a) An alien veteran, as defined in section 241 of this title, shall, if residing in the United States, be entitled at any time prior to May 25, 1937, to naturalization upon the same terms, conditions, and exemptions which would have been accorded to such alien if he had petitioned before the armistice of the World War, except that (1) such alien shall be required to prove that immediately preceding the date of his petition he has resided continuously within the United States for at least two years, in pursuance of a legal admission for permanent residence, and that during the five years immediately preceding the filing of his petition he has behaved as a person of good moral character; (2) (As amended June 24, 1935, c. 288, § 1, 49 Stat. 395.)

§ 392c. Same; effect of departure from United States; proof of compliance with provisions. The provisions of section 392b of this title extended to include any alien lawfully admitted into the United States for permanent residence who departed therefrom between August 1, 1914,<sup>1</sup> and April 5, 1917, or who, having been denied entry into the military and naval forces of the United States, departed therefrom subsequent to April 5, 1917, for the purpose of serving, and actually served prior to November 11, 1918, in the military or naval forces of any of the countries allied with the United States in the World War and was discharged from such service under honorable circumstances: *Provided*, That before any applicant for citizenship under this section is admitted to citizenship, the court shall be satisfied by competent proof that he is entitled to, and has complied in all respects with, the provisions of section 392b of this title; and that he was and had been a bona fide lawfully admitted resident in the United States for two years before June 24, 1935. (June 24, 1935, c. 288, § 2, 49 Stat. 395.)

§ 392d. Same; regulations for enforcement. The Commissioner of Immigration and Naturalization, with the approval of the Secretary of Labor, shall prescribe such rules and regulations as may be necessary for the enforcement of sections 392b and 392c of this title. (June 24, 1935, c. 288, § 3, 49 Stat. 395.)

§ 392e. Alien veterans of World War formerly ineligible because of race; conditions and exemptions affecting naturalization; limitation. Notwithstanding the racial limitations contained within section 359 of this title, and within section 363 of this title, any alien veteran of the World War heretofore ineligible to citizenship because not a free white person or of African nativity or of African descent may be naturalized under this section and sections 392f and 392g of this title if he—

(a) Entered the service of the armed forces of the United States prior to November 11, 1918;

(b) Actually rendered service with the armed forces of the United States between April 6, 1917, and November 11, 1918;

(c) Received an honorable discharge from such service for any reason other than his alienage;

(d) Resumed his previous permanent residence in the United States or any Territory thereof; and

(e) Has maintained a permanent residence continuously since the date of discharge and was on June 24, 1935, a permanent resident of the United States or any Territory thereof: upon compliance with all the requirements of the naturalization laws, except—

(f) No certificate of arrival and no declaration of intention shall be required;

(g) No additional residence shall be required before the filing of petition for certificate of citizenship; and

(h) The petition for certificate of citizenship shall be filed with a court having naturalization jurisdiction prior to January 1, 1937. (June 24, 1935, c. 290, § 1, 49 Stat 397.)

§ 392f. Same; validity of certificates of citizenship issued prior to June 24, 1935; replacement of lost, mutilated, or destroyed certificates. Certificates of citizenship issued prior to June 24, 1935, and therefore granted by any court having naturalization jurisdiction under the provisions of sections 388 to 395 of this title, or of the Act of July 19, 1919, to any

<sup>1</sup> So in original.

alien veteran who is eligible to be naturalized under the provisions of section 392 of this title, and orders or judgments authorizing such certificates, are declared to be valid for all purposes insofar as the race of the veteran is concerned. Such certificates may be stamped, declaring their validity under this section, by the Commissioner of Immigration and Naturalization upon submission of satisfactory proof to establish identity.

Certificates declared valid under the foregoing paragraph, which have been lost, mutilated, destroyed, or surrendered to any official of the United States may be replaced by a new certificate bearing date of original certificate upon compliance with the provisions of section 399b(a) of this title (June 24, 1935, c. 290, § 2, 49 Stat. 398.)

§ 392g. Same; waiver of naturalization fees. On applications filed for any benefits under sections 392e and 392f of this title, the requirement of fees for naturalization documents is waived. (June 24, 1935, c. 290, § 3, 49 Stat. 398.)

#### VALIDATING OR CANCELING NATURALIZATION CERTIFICATES

§ 405. Cancellation of certificates of citizenship fraudulently or illegally procured; aliens returning to country of nativity or residing permanently in foreign country; certified copy of order canceling certificate.

"Sixty" in second column, line 12, should be "sixty"

## TITLE 10—ARMY

### Chapter 4.—INSPECTOR GENERAL'S DEPARTMENT

§ 53. **Traveling expenses of expert accountant.** The expert accountant, Inspector General's Department, shall be entitled to the same travel allowances as other employees of the War Department. (Apr. 19, 1935, c. 54, Title I, 49 Stat. 126)

### Chapter 9.—CORPS OF ENGINEERS

§ 187. **Employment of draftsmen, etc., in office of Chief of Engineers.**

Repeated, Act Apr 19, 1935, c. 54, Title I, 49 Stat. 121.

### Chapter 10.—ORDNANCE DEPARTMENT

§ 198. **Sale of useless ordnance material; appropriation of amount equal to proceeds of sale.**

"Matériel" in line 4 should be "materials"; "matériel" in line 8 should be "material."

### Chapter 18.—AIR CORPS

§ 292d. **Application of other sections to provisions of section 292a.** Nothing in sections 552a, 552b, 553a and 553b of this title shall be deemed to apply to temporary advancements in rank of commissioned officers of the Air Corps as authorized in section 292a of this title, and officers temporarily advanced in rank under the provisions of said section shall be counted only in the grade in which they hold permanent commissions in computing the numbers in such grades (July 31, 1935, c. 422, § 6, 49 Stat. 507)

Section 8 of the Act cited to the text provided that it should become effective on Aug 1, 1935

### Chapter 19.—PHILIPPINE SCOUTS

§ 321. **Organization.**

"31 Stat. 770" in citation should be "31 Stat. 757."

### Chapter 20.—RESERVE FORCES

#### OFFICERS' RESERVE CORPS

§ 367. **Mileage allowance limited.**

Repeated, Act April 19, 1935, c. 54, Title I, 49 Stat. 140

§ 369a. **Same; officers of combatant arms and Chemical Warfare Service.** The President is hereby authorized to call annually, with their consent, upon application to and selection by the War Department, for a period of not more than one year for any one officer, not to exceed at any time one thousand Reserve officers of the combatant arms and the Chemical Warfare Service in the grade of second lieutenant, for active duty with the Regular Army: *Provided*, That nothing herein contained shall affect the number of reserve officers that may be called to active duty under existing laws, nor the conditions under and purposes for which they may be so called. (Aug 30, 1935, c. 830, § 1, 49 Stat. 1028)

### Chapter 21.—COMMISSIONED OFFICERS

#### GENERAL PROVISIONS

§ 487a. **Commissioning reserve officers in Regular Army.** For the period of ten years beginning July 1, 1936, the Secretary of War is authorized to select annually, in addition to the graduates from the United States Military Academy, fifty officers who shall be

commissioned in the Regular Army: *Provided*, That the Secretary of War shall determine for each annual increment the number to be allotted among the promotion list branches: *And provided further*, That the number to be appointed in the promotion list branches shall be selected from such reserve officers who have received the training authorized in the National Defense Act or from graduates of the Army Air Corps Training Center. (Aug 30, 1935, c. 830, § 2, 49 Stat. 1028.)

#### RANK AND PRECEDENCE GENERALLY

§ 511. **Determination of relative rank in line of army.**

"of" in second column, line 7, should be omitted

#### DETACHED DUTY

§ 540. **Detail of officers and men to assist foreign governments.**

This section was amended by Act May 14, 1935, c. 109, 49 Stat. 218, by striking out the word "and" preceding the words "Santo Domingo" and inserting after the words "Santo Domingo" the words "and the Commonwealth of the Philippine Islands"

§ 541. **Detail of officers for foreign service of Department of State.** The President, in his discretion, may assign officers of the Army and the Navy for duty in the courier service of the Department of State and for the inspection of buildings owned or occupied by the United States in foreign countries under the jurisdiction of that Department, and when so assigned they may receive the same traveling expenses as are authorized for officers of the Foreign Service, payable from the applicable appropriations of the Department of State. (Mar. 22, 1935, c. 39, § 1, 49 Stat. 70.)

#### PROMOTION

§ 552a. **Promotion to vacancies occurring after June 30, 1935; peace time promotions; number of officers below grade of major on promotion list.** All vacancies, including original vacancies resulting from the operation of section 2 hereof, occurring on or after July 1, 1935, in the respective grades of colonel, lieutenant colonel, and major of promotion-list officers shall be filled by the promotion of promotion-list officers in the manner provided in sections 552 and 556 of this title: *Provided*, That no promotion-list officer shall be promoted in time of peace under the provisions of sections 552a, 553a, 553b of this title to the grade of colonel until he shall have completed twenty-six years' service; to the grade of lieutenant colonel until he shall have completed twenty years' service, or to the grade of major until he shall have completed fifteen years' service, the service to be counted for purposes of this proviso to be only active commissioned service of the same classes prescribed for promotion-list purposes in section 553 of this title; but this proviso shall not apply to lieutenant colonels and majors whose first appointments in the permanent service were in grades above those of captain and second lieutenant, respectively, or who were appointed to the Regular Army under the provisions of the first sentence of section 24 of the Act of June 3, 1916, as amended by the said Act of June 4, 1920, nor to captains whose first appointments in the permanent service were in a grade above second lieutenant, or whose present rank dates from July 1, 1920, or earlier. All officers promoted under the provisions of this paragraph shall take rank in the grade to which promoted

according to the dates stated in their commissions in said grade; and when the dates of rank of two or more officers in said grade are the same, such officers shall take rank among themselves according to their standing on the promotion list.

The number of promotion-list officers that shall be in the respective grades of captain and first lieutenant at any time after Aug. 1, 1935 shall be such as results from the operation of the promotion system hereinafter in this paragraph prescribed. Promotion-list second lieutenants and first lieutenants shall be promoted to the respective grades of first lieutenant and captain immediately upon completing respectively three years' and ten years' commissioned service in the Regular Army, but not otherwise; and all such officers in the said grades of second lieutenant and first lieutenant, respectively, who shall have completed the said respective periods of service on or before Aug. 1, 1935 shall be so promoted as of said date. *Provided*, That no officer shall be promoted, under the provisions of this paragraph, in advance of any officer in the same grade whose name appears above his on the promotion list. (July 31, 1935, c. 422, § 3, 49 Stat. 506.)

Section 8 of the Act cited to the text provided that it should become effective on Aug. 1, 1935.

**§ 552b. Promotion of nonpromotion-list officers; officers of Veterinary Corps of Medical Department; chaplains.** That general officers of the line, chiefs and assistant chiefs of branches, and all nonpromotion-list officers shall continue to be appointed and promoted as now authorized by law, except that officers of the Veterinary Corps of the Medical Department shall be promoted to, and chaplains shall be given the rank, pay, and allowances of the respective grades to and including that of colonel upon completion of the same respective periods of service prescribed by law in force on June 30, 1935, for officers of the Medical Corps. From and after Aug. 1, 1935 original appointments in the Veterinary Corps shall be made in the grade of first lieutenant from Reserve veterinary officers between the ages of twenty-three and thirty-two years, and officers serving in that Corps on Aug. 1, 1935 in the grade of second lieutenant shall be promoted to the grade of first lieutenant as of said date. (July 31, 1935, c. 422, § 4, 49 Stat. 506.)

Section 8 of the Act cited to the text provided that it should become effective on Aug. 1, 1935.

**§ 553a. Same; additional officers included; examination.** After July 31, 1935 the promotion list of the Regular Army and Philippine Scouts shall include all officers on the active list in the grades of second lieutenant to colonel inclusive, except officers of the Medical Department, chaplains, and professors of the United States Military Academy; promotion-list colonels shall be placed immediately above the lieutenant colonels on the promotion list provided for in section 553 of this title, in the order of their standing on the relative rank list of colonels on July 31, 1935; officers on the promotion list as above defined shall be known as promotion-list officers; all other officers, except general officers, shall be known as non-promotion-list officers: *Provided*, That nothing in this section and sections 552a and 553b of this title shall be so construed as to change the respective relative positions held by officers on the promotion list, hereinbefore prescribed, nor the method of determining the position of officers on that list as prescribed by section 553 of this title, except as hereinbefore provided.

All promotions provided for in this section and sections 552a and 553b of this title shall be subject to the examination prescribed by existing law. (July 31, 1935, c. 422, § 1, 49 Stat. 505.)

Section 8 of the Act cited to the text provided that it should become effective on Aug. 1, 1935.

**§ 553b. Same; number of colonels, lieutenant colonels and majors on list.** From and after Aug. 1, 1935 the authorized number of promotion-list officers in the grade of colonel shall be 6 per centum; the number of such officers in the grade of lieutenant colonel

shall be 9 per centum; and the number of such officers in the grade of major shall be 25 per centum of the aggregate number of promotion-list officers authorized by law: *Provided*, That in making any computation under the provisions of this section whenever a final fraction of one-half or more occurs in the number of officers involved in any such computation the next higher whole number of officers shall be regarded as the authorized or required number thereof. (July 31, 1935, c. 422, § 2, 49 Stat. 506.)

Section 8 of the act cited to the text provided that it should become effective on Aug. 1, 1935.

## Chapter 25.—PAY AND ALLOWANCES

### QUARTERS AND SUBSISTENCE

**§ 727. Subsistence of Army patients in Canal Zone hospitals.**

Repeated, Act Apr. 19, 1935, c. 54, Title I, 49 Stat. 135.

### MILEAGE AND TRAVEL EXPENSES

**§ 756b. "Permanent change of station" in section 756 defined.** The words "permanent change of station" as used in section 756 of this title, shall be held to include the home of an officer or man to which he is ordered in connection with retirement. (June 24, 1935, c. 291, § 3, 49 Stat. 421.)

### PAYMENT OF AND DEDUCTIONS FROM PAY OR ALLOWANCES

**§ 861. Officers to be paid monthly.**

"officer" in line 2 should be "others."

## Chapter 26.—RETIREMENT

### RETIREMENT FOR AGE OR LENGTH OF SERVICE

**§ 943a. Retirement on voluntary application.** Any officer on the active list of the Regular Army or Philippine scouts who, on Aug. 1, 1935 or at any time thereafter, shall have completed not less than fifteen nor more than twenty-nine years' service may upon his own application be retired, in the discretion of the President. (July 31, 1935, c. 422, § 5, 49 Stat. 507.)

Section 8 of the Act cited to the text provided that it should become effective on Aug. 1, 1935.

### SERVICE COUNTED IN DETERMINING RIGHT TO RETIREMENT

**§ 951b. Service in Navy or Marine Corps.** In computing service for the purpose of retirement of an officer of the Army, there shall be included, in addition to service now authorized by law to be included, all service in the Navy or Marine Corps which is authorized by law to be included for the purpose of retirement of an officer of the Navy or Marine Corps. (June 15, 1935, c. 257, 49 Stat. 377.)

### RETIRED PAY

**§ 971b. Rate of pay of officers retired on application; computation of service; grade on retirement of officers serving in World War; placement on unlimited list.** Any officer on the active list of the Regular Army or Philippine scouts who, on Aug. 1, 1935 or at any time thereafter, shall have completed not less than fifteen nor more than twenty-nine years' service may upon his own application be retired, in the discretion of the President with annual pay equal to the product of 2½ per centum of his active duty annual pay at the time of his retirement, multiplied by a number equal to the years of his active service not in excess of twenty-nine years: *Provided*, That the number of years of service to be credited in computing the right to retirement and retirement pay under this section shall include all service now or hereafter



credited for active duty pay purposes any fractional part of a year amounting to six months or more to be counted as a complete year: *And provided further*, That any officer of the Regular Army or Philippine scouts below the grade of major who served as a commissioned officer in the Army of the United States prior to November 12, 1918, and whose application for retirement under the provisions of this section has been approved by the President shall be retired in the grade of major with retired pay computed as hereinbefore provided as for a major with the same length of service. *And provided further*, That nothing in this section shall operate to deprive any officer of the retired rank to which he is now entitled under the provisions of law: *And provided further*, That any officer originally appointed as of July 1, 1920, at an age greater than forty-five years, may if he so elects, in lieu of retired pay at the rate hereinbefore provided, receive retired pay at the rate of 4 per centum of active duty pay for each complete year of commissioned service in the United States Army, the total to be not more than 75 per centum: *And provided further*, That all officers retired under the provisions of this section shall be placed on the unlimited retired list. (July 31, 1935, c. 422, § 5, 49 Stat. 507.)

Section 8 of the Act cited to the text provided that it should become effective on Aug 1, 1935

#### MISCELLANEOUS PROVISIONS

**§ 1028a. Commissioned officers of Army, Navy, Marine Corps, and Coast Guard serving in World War; war time rank on retirement or death; effect of increased rank on pay and allowances.**

This section is amended by Act June 15, 1935, c. 256, 49 Stat. 377, by striking out the words "except those retired under the provisions of section 571 this title"

**§ 1028d. Effect of section 971b on existing law.** All existing law governing the termination of active service of officers shall continue in full force and effect, except as herein modified (July 31, 1935, c. 422, § 7, 49 Stat. 507.)

Section 8 of the Act cited to the text provided that it should become effective on Aug 1, 1935

#### Chapter 27.—MILITARY ACADEMY

##### CADETS

**§ 1091b. Additional number of cadets provided for.** On and after June 7, 1935 there shall be allowed at the United States Military Academy three cadets for each Senator, Representative, Delegate in Congress, and Resident Commissioner from Puerto Rico, one to be selected by the Governor of the Panama Canal Zone, from among the sons of civilians of the Panama Canal Zone and the Panama Railroad, resident on the zone, five for the District of Columbia, and one hundred and thirty-two from the United States at large, forty of whom shall be appointed on the recommendation of the academic authorities of the "honor schools" as designated by the War Department, and three of whom shall be selected from persons recommended by the Vice President, in addition to the number now authorized to be appointed from the enlisted men of the Regular Army and National Guard, and the sons of deceased officers, soldiers, sailors, and marines. (June 7, 1935, c. 201, 49 Stat. 332.)

#### MISCELLANEOUS PROVISIONS

**§ 1161a. Librarian.**

Repeated, Act Apr. 19, 1933, c. 54, Title I, 49 Stat. 138

#### Chapter 28.—SERVICE SCHOOLS, POST SCHOOLS, AND MILITARY INSTRUCTION IN EDUCATIONAL INSTITUTIONS

**§ 1178a. Retired officer authorized to receive pay as military instructor in high school.** Notwithstanding any other provision of law, one retired officer of the

United States Army, acting as professor of military science and tactics at the public high schools of Washington, District of Columbia, shall be permitted to receive, in addition to his retired pay, the pay of a teacher in the public high schools of Washington, District of Columbia, not to exceed \$1,800 per annum, under appointment by the Board of Education of the District of Columbia and payable from the appropriation for the expenses of the public schools of the District of Columbia (June 4, 1935, c. 167, 49 Stat. 320.)

**§ 1179. Sale of Army stores to educational institutions.**

The note under this section should read: "See section 7261 of Title 31"

#### Chapter 30.—MILITARY POSTS AND CAMPS; QUARTERS AND BARRACKS; TRAINING STATIONS

**§ 1343a. Selection, construction and alteration of stations and depots for Army Air Corps; number.** The Secretary of War is authorized and directed to determine in all strategic areas of the United States, including those of Alaska and our overseas possessions and holdings, the location of such additional permanent Air Corps stations and depots as he deems essential, in connection with the existing Air Corps stations and depots and the enlargement of the same when necessary, for the effective peace-time training of the General Headquarters Air Force and the Air Corps components of our overseas garrisons. In determining the locations of new stations and depots, consideration shall be given to the following regions for the respective purposes indicated: (1) The Atlantic Northeast—to provide for training in cold weather and in fog; (2) the Atlantic Southeast and Caribbean areas—to permit training in long-range operations, especially those incident to reinforcing the Panama Canal; (3) the Southeastern States—to provide a depot essential to the maintenance of the General Headquarters Air Force; (4) the Pacific Northwest—to establish and maintain air communication with Alaska; (5) Alaska—for training under conditions of extreme cold; (6) the Rocky Mountain area—to provide a depot essential to the maintenance of the General Headquarters Air Force, and to afford, in addition, opportunity for training in operations from fields in high altitudes; and (7) such intermediate stations as will provide for transcontinental movements incident to the concentration of the General Headquarters Air Force for maneuvers.

In the selection of sites for new permanent Air Corps stations and depots and in the determination of the existing stations and depots to be enlarged and/or altered, the Secretary of War shall give consideration to the following requirements:

First. The stations shall be suitably located to form the nucleus of the set-up for concentrations of General Headquarters Air Force units in war and to permit, in peace, training and effective planning, by responsible personnel in each strategic area, for the utilization and expansion, in war, of commercial, municipal, and private flying installations

Second. In each strategic area deemed necessary, there shall be provided adequate storage facilities for munitions and other essentials to facilitate effective movements, concentrations, maintenance, and operations of the General Headquarters Air Force in peace and in war.

Third. The stations and depots shall be located with a view to affording the maximum warning against surprise attack by enemy aircraft upon our own aviation and its essential installations, consistent with maintaining, in connection with existing or contemplated additional [sic] landing fields, the full power of the General Headquarters Air Force for such close and distant operations over land and sea as may be required in the defense of the continental United States and in the defense and the reinforcement of our overseas possessions and holdings.

Fourth. The number of stations and depots shall be limited to those essential to the foregoing purposes. (Aug. 12, 1935, c. 511, § 1, 49 Stat. 610.)

§ 1343b. **Acquisition of land by gift, purchase or condemnation.** To accomplish the purposes of section 1343a of this title, the Secretary of War is authorized to accept, on behalf of the United States, free of encumbrances and without cost to the United States, the title in fee simple to such lands as he may deem necessary or desirable for new permanent Air Corps stations and depots and/or the extension of or addition to existing Air Corps stations or depots; or, with the written approval of the President, to exchange for such lands existing military reservations or portions thereof; or, if it be found impracticable to secure the necessary lands by either of these methods, to purchase the same by agreement or through condemnation proceedings. (Aug. 12, 1935, c. 511, § 2, 49 Stat. 611.)

§ 1343c. **Buildings, utilities and other equipment; acquisition of bombing and machine-gun ranges.** The Secretary of War is further authorized and directed to construct, install, and equip, or complete the construction, installation, and equipment, inclusive of bomb-proof protection as required, at each of said stations and depots, such buildings and utilities, technical buildings and utilities, landing fields and mats, and all utilities and appurtenances thereto, ammunition storage, fuel and oil storage and distribution systems therefor, roads, walks, aprons, docks, runways, sewer, water, power, station and aerodrome lighting, telephone and signal communications, and other essentials, including the necessary grading and removal or remodeling of existing structures and installations. He is authorized, also, to direct the necessary transportation of personnel, and purchase, renovation, and transportation of materials, as in his judgment may be required to carry out the purposes of this section and section 1343a. The Secretary of War is further authorized to acquire by gift, purchase, lease, or otherwise, at such locations as may be desirable, such bombing and machine-gun ranges as may be required for the proper practice and training of tactical units. (Aug. 12, 1935, c. 511, § 3, 49 Stat. 611.)

§ 1343d. **Appropriation.** There is hereby authorized to be appropriated, out of any money in the Treasury of the United States not otherwise appropriated, such sums of money as may be necessary, to be expended under the direction of the Secretary of War for the purposes of sections 1343a to 1343c of this title, including the expenses incident to the necessary surveys, which appropriation shall continue available until expended: *Provided*, That the provisions of section 1339 of this title shall not apply to the construction of the aforesaid stations and depots. (Aug. 12, 1935, c. 511, § 4, 49 Stat. 611.)

#### Chapter 34.—DESERTION

##### § 1431. Compensation for arresting deserters.

Repeated, Act Apr. 19, 1935, c. 54, Title I, 49 Stat. 127

#### Chapter 37.—SURPLUS WAR DEPARTMENT REAL PROPERTY; SALE; DISPOSITION OF PROCEEDS

§ 1594a. **Eagle Pass Military Reservation; sale authorized.** The Secretary of War be, and he is authorized to sell and convey to the Eagle Pass and Piedras Negras Bridge Company, its successors and assigns, on terms and conditions to be prescribed by the Secretary of War the right, title and interest of the United States in that portion of the Eagle Pass Military Reservation, Texas, occupied by said company on which its improvements are located.

The Secretary of War is further authorized to dispose of the remainder of said reservation in accordance with and under the applicable provisions and conditions of this chapter, and may also include in such disposition that portion of the reservation covered by the first paragraph of this section, if the Eagle Pass and Piedras Negras Bridge Company shall not elect to acquire said portion or, having made such election, shall not consummate the purchase or accept tender of the deed and pay the consideration within such time as may be fixed by the Secretary of War. (July 26, 1935, c. 418, §§ 1, 2, 49 Stat. 503, 504.)

## TITLE 11.—BANKRUPTCY

### Chapter 2.—BANKRUPT

#### § 22. Bankrupts; who may become.

\* \* \* \*

(b) Any natural person, except a wage earner or a farmer, any unincorporated company, and any moneyed, business, or commercial corporation (except a municipal, railroad, insurance or banking corporation, or a building and loan association) owing debts to the amount of \$1,000 or over, may be adjudged an involuntary bankrupt upon default or an impartial trial, and shall be subject to the provisions and entitled to the benefits of this title.

The bankruptcy of a corporation or association shall not release its officers, directors, or stockholders, as such, from any liability under the laws of a State or Territory or of the United States. (As amended May 15, 1935, c. 114, § 1, 49 Stat. 246.)

### Chapter 7.—ESTATES

§ 101. Depositories for money. \* \* \* or the amount of any bond or change such depositories: *Provided*, That no security in form of a bond or otherwise shall be required in the case of such part of the deposits as are insured under section 264 of Title 12. (As amended Aug. 23, 1935, c. 614, § 340, 49 Stat. 721.)

#### § 104. Debts which have priority.

As to rights of holders of valid liens, see section 107 of this title.

### Chapter 8.—PROVISIONS FOR THE RELIEF OF DEBTORS

#### § 202. Compositions and extensions.

\* \* \* \*

(7) If (1) the debtor shall fail to comply with any of the terms required of him for the protection of and indemnity against loss by the estate; or (2) the debtor has failed to make the required deposit in case of a composition; or (3) the debtor's proposal has not been accepted by the creditors; or (4) confirmation has been denied; or (5) without sufficient reason the debtor defaults in any payment required to be made under the terms of an extension proposal when the court has retained jurisdiction of the debtor or his property, the court may appoint the trustee nominated by the creditors at the first meeting, and if the creditors shall have failed to so nominate, may appoint any other qualified person as trustee to liquidate the estate. The court shall in addition adjudge the debtor a bankrupt if satisfied that he commenced or prolonged the proceeding for the purpose of delaying creditors and avoiding an adjudication in bankruptcy, or if the confirmation of his proposal has been denied. No order of liquidation or adjudication shall be entered in any proceeding under this section instituted by or against a wage earner or a farmer unless the wage earner or farmer consents. (As amended May 15, 1935, c. 114, § 2, 49 Stat. 246.)

The amendment affected subsection (1) set out above

#### § 203. Agricultural compositions and extensions.

(a) Within thirty days after June 7, 1934, every court of bankruptcy of which the jurisdiction or territory includes a county or counties having an agricultural population (according to the last available United States census) of five hundred or more farmers shall appoint one or more referees to be known as "conciliation commissioners", one such conciliation commissioner to be appointed for each county having an agricultural population of five hundred or more farm-

ers according to said census: Provided further, That where any county in any such district contains a smaller number of farmers according to said census, for the purposes of this paragraph such county shall be included with one or more adjacent counties where the population of the counties so combined includes five hundred or more farmers, according to said census. In case more than one conciliation commissioner is appointed for a county, each commissioner shall act separately and shall have such territorial jurisdiction within the county as the court shall specify. A conciliation commissioner shall have a term of office of one year and may be removed by the court if his services are no longer needed or for other cause. No individual shall be eligible to appointment as a conciliation commissioner unless he is eligible for appointment as a referee and in addition is a resident of the county, familiar with agricultural conditions therein and not engaged in the farm-mortgage business, the business of financing farmers or transactions in agricultural commodities or the business of marketing or dealing in agricultural commodities or of furnishing agricultural supplies. In each judicial district the court may, if it finds it necessary or desirable, appoint a suitable person as a supervising conciliation commissioner. The supervising conciliation commissioner shall have such supervisory functions under this section as the court may by order specify.

(b) Upon filing of any petition by a farmer under this section there shall be paid a fee of \$10 to be transmitted to the clerk of the court and covered into the Treasury. The conciliation commissioner shall receive as compensation for his services a fee of \$25 for each case submitted to him, and when docketed, to be paid out of the Treasury. A supervising conciliation commissioner shall receive, as compensation for his services, a per diem allowance to be fixed by the court, in an amount not in excess of \$5 per day, together with subsistence and travel expenses in accordance with the law applicable to officers of the Department of Justice. Such compensation and expenses shall be paid out of the Treasury. If the creditors at any time desire supervision over the farming operations of a farmer, the cost of such supervision shall be borne by such creditors or by the farmer, as may be agreed upon by them, but in no instance shall the farmer be required to pay more than one-half of the cost of such supervision. Nothing contained in this section shall prevent a conciliation commissioner who supervises such farming operations from receiving such compensation therefor as may be so agreed upon. No fees, costs, or other charges shall be charged or taxed to any farmer or his creditors by any conciliation commissioner or with respect to any proceeding under this section except as hereinbefore in this section provided. The conciliation commissioner may accept and avail himself of office space, equipment, and assistance furnished him by other Federal officials, or by any State, county, or other public officials. The Supreme Court is authorized to make such general orders as it may find necessary properly to govern the administration of the office of conciliation commissioner and proceedings under this section; but any district court of the United States may, for good cause shown and in the interests of justice, permit any such general order to be waived.

\* \* \* \*

(g) An application for the confirmation of a composition or extension proposal may be filed in the court of bankruptcy after, but not before, it has been accepted in writing, by a majority in number of all

creditors whose claims have been allowed, including secured creditors whose claims are affected, which number shall represent a majority in amount of such claims.

(k) Upon its confirmation, a composition or extension proposal shall be binding upon the farmer and his secured and unsecured creditors affected thereby: *Provided, however,* That such extension and/or composition shall not reduce the amount of or impair the lien of any secured creditor below the fair and reasonable market value of the property securing any such lien at the time that the extension and/or composition is accepted, but nothing herein shall prevent the reduction of the future rate of interest on all debts of the debtor, whether secured or unsecured.

(n) The filing of a petition or answer with the clerk of court, or leaving it with the conciliation commissioner for the purpose of forwarding same to the clerk of court, praying for relief under this section, shall immediately subject the farmer and all his property, wherever located, for all the purposes of this section, to the exclusive jurisdiction of the court, including all real or personal property, or any equity or right in any such property, including, among others, contracts for purchase, contracts for deed, or conditional sales contracts, the right or the equity of redemption where the period of redemption has not or had not expired, or where a deed of trust has been given as security, or where the sale has not or had not been confirmed, or where deed had not been delivered, at the time of filing the petition.

In all cases where, at the time of filing the petition, the period of redemption has not or had not expired, or where the right under a deed of trust has not or had not become absolute, or where the sale has not or had not been confirmed, or where deed had not been delivered, the period of redemption shall be extended or the confirmation of sale withheld for the period necessary for the purpose of carrying out the provisions of this section. The words "period of redemption" wherever they occur in this section shall include any State moratorium, whether established by legislative enactment or executive proclamation, or where the period of redemption has been extended by a judicial decree. In proceedings under this section, except as otherwise provided herein, the jurisdiction and powers of the courts, the title, powers, and duties of its officers, the duties of the farmer, and the rights and liabilities of creditors, and of all persons with respect to the property of the farmer and the jurisdiction of the appellate courts, shall be the same as if a voluntary petition for adjudication had been filed and a decree of adjudication had been entered on the day when the farmer's petition, asking to be adjudged a bankrupt, was filed with the clerk of court or left with the conciliation commissioner for the purpose of forwarding same to the clerk of court.

(p) The prohibitions of subsection (o) shall apply to all judicial or official proceedings in any court or under the direction of any official, and shall apply to all creditors, public or private, and to all of the debtor's property, wherever located. All such property shall be under the sole jurisdiction and control of the court in bankruptcy, and subject to the payment of the debtor farmer's creditors, as provided for in this section.

(q) A conciliation commissioner shall upon request assist any farmer in preparing and filing a petition under this section and in all matters subsequent thereto arising under this section and farmers shall not be required to be represented by an attorney in any proceeding under this section.

(r) For the purposes of this section, section 22 (b), and section 202, the term "farmer" includes not only an individual who is primarily bona fide personally engaged in producing products of the soil, but also any individual who is primarily bona fide personally

engaged in dairy farming, the production of poultry or livestock, or the production of poultry products or livestock products in their unmanufactured state, or the principal part of whose income is derived from any one or more of the foregoing operations, and includes the personal representative of a deceased farmer; and a farmer shall be deemed a resident of any county in which such operations occur.

(s) Any farmer failing to obtain the acceptance of a majority in number and amount of all creditors whose claims are affected by a composition and/or extension proposal, or if he feels aggrieved by the composition and/or extension, may amend his petition or answer, asking to be adjudged a bankrupt. Such farmer may, at the same time, or at the time of the first hearing, petition the court that all of his property, wherever located, whether pledged, encumbered, or unencumbered, be appraised, and that his unencumbered exemptions, and unencumbered interest or equity in his exemptions, as prescribed by State law, be set aside to him, and that he be allowed to retain possession, under the supervision and control of the court, of any part or parcel or all of the remainder of his property, including his encumbered exemptions, under the terms and conditions set forth in this section. Upon such a request being made, the referee, under the jurisdiction of the court, shall designate and appoint appraisers, as provided for in this title. Such appraisers shall appraise all of the property of the debtor, wherever located, at its then fair and reasonable market value. The appraisals shall be made in all other respects with rights of objections, exceptions, and appeals, in accordance with this title: *Provided,* That in proceedings under this section, either party may file objections, exceptions, and take appeals within four months from the date that the referee approves the appraisal.

(1) After the value of the debtor's property shall have been fixed by the appraisal herein provided, the referee shall issue an order setting aside to such debtor his unencumbered exemptions, and his unencumbered interest or equity in his exemptions, as prescribed by the State law, and shall further order that the possession, under the supervision and control of the court, of any part or parcel or all of the remainder of the debtor's property shall remain in the debtor, as herein provided for, subject to all existing mortgages, liens, pledges, or encumbrances. All such existing mortgages, liens, pledges, or encumbrances shall remain in full force and effect, and the property covered by such mortgages, liens, pledges, or encumbrances shall be subject to the payment of the claims of the secured creditors, as their interests may appear.

(2) When the conditions set forth in this section have been complied with, the court shall stay all judicial or official proceedings in any court, or under the direction of any official, against the debtor or any of his property, for a period of three years. During such three years the debtor shall be permitted to retain possession of all or any part of his property, in the custody and under the supervision and control of the court, provided he pays a reasonable rental semiannually for that part of the property of which he retains possession. The first payment of such rental shall be made within one year of the date of the order staying proceedings, the amount and kind of such rental to be the usual customary rental in the community where the property is located, based upon the rental value, net income, and earning capacity of the property. Such rental shall be paid into court, to be used, first, for payment of taxes and upkeep of the property, and the remainder to be distributed among the secured and unsecured creditors, and applied on their claims, as their interests may appear. The court, in its discretion, if it deems it necessary to protect the creditors from loss by the estate, and/or to conserve the security, may order sold any unexempt perishable property of the debtor, or any unexempt personal property not reasonably necessary for the farming operations of the debtor, such sale to be had at private or public sale, and may,

in addition to the rental, require payments on the principal due and owing by the debtor to the secured or unsecured creditors, as their interests may appear, in accordance with the provisions of this title, and may require such payments to be made quarterly, semiannually, or annually, not inconsistent with the protection of the rights of the creditors and the debtor's ability to pay, with a view to his financial rehabilitation.

(3) At the end of three years, or prior thereto, the debtor may pay into court the amount of the appraisal of the property of which he retains possession, including the amount of encumbrances on his exemptions, up to the amount of the appraisal, less the amount paid on principal: *Provided*, That upon request of any secured or unsecured creditor, or upon request of the debtor, the court shall cause a reappraisal of the debtor's property, or in its discretion set a date for hearing, and after such hearing, fix the value of the property, in accordance with the evidence submitted, and the debtor shall then pay the value so arrived at into court, less payments made on the principal, for distribution to all secured and unsecured creditors, as their interests may appear, and thereupon the court shall, by an order, turn over full possession and title of said property, free and clear of encumbrances to the debtor: *Provided*, That upon request in writing by any secured creditor or creditors, the court shall order the property upon which such secured creditors have a lien to be sold at public auction. The debtor shall have ninety days to redeem any property sold at such sale, by paying the amount for which any such property was sold, together with 5 per centum per annum interest, into court, and he may apply for his discharge, as provided for by this title. If, however, the debtor at any time fails to comply with the provisions of this section, or with any orders of the court made pursuant to this section, or is unable to refinance himself within three years, the court may order the appointment of a trustee, and order the property sold or otherwise disposed of as provided for in this title.

(4) The conciliation commissioner, appointed under subsection (a) of this section, as amended, shall continue to act, and act as referee, when the farmer debtor amends his petition or answer, asking to be adjudged a bankrupt under the provisions of this subsection, and continue so to act until the case has been finally disposed of. The conciliation commissioner, as such referee, shall receive such an additional fee for his services as may be allowed by the court, not to exceed \$35 in any case, to be paid out of the bankrupt's estate. No additional fees or costs of administration or supervision of any kind shall be charged to the farmer debtor when or after he amends his petition or answer, asking to be adjudged a bankrupt, under this subsection, but all such additional filing fees or costs of administration or supervision shall be charged against the bankrupt's estate. Conciliation commissioners and referees appointed under this section shall be entitled to transmit in the mails, free of postage, under cover of a penalty envelope, all matters which relate exclusively to the business of the courts, including notices to creditors. If, at the time that the farmer debtor amends his petition or answer, asking to be adjudged a bankrupt, a receiver is in charge of any of his property, such receiver shall be divested of possession, and the property returned to the possession of such farmer, under the provisions of this title. The provisions of this title shall be held to apply also to partnerships, common, entirety, joint, community ownerships, or to farming corporations where at least 75 per centum of the stock is owned by actual farmers, and any such parties may join in one petition.

(5) This title shall be held to apply to all existing cases now pending in any Federal court, under this title, as well as to future cases: and all cases that have been dismissed by any conciliation commissioner, referee, or court because of the Supreme Court decision holding the former subsection (s) unconstitutional,

shall be promptly reinstated, without any additional filing fees or charges. Any farm debtor who has filed under this title may take advantage of this section upon written request to the court; and a previous discharge of the debtor under any other section of this title shall not be grounds for denying him the benefits of this section.

(6) This title is hereby declared to be an emergency measure and if in the judgment of the court such emergency ceases to exist in its locality, then the court, in its discretion, may shorten the stay of proceedings herein provided for and proceed to liquidate the estate. (As amended May 15, 1935, c. 114, § 3, 49 Stat. 246; Aug. 28, 1935, c. 792, §§ 1-6, 49 Stat. 945.)

The words "this title" in lines 1 and 3 of subdivision (5) of subsection (s) and line 1 of subdivision (6) of subsection (s) are a translation of the words "this Act" as contained in the amendment of August 28, 1935. It seems doubtful, however, whether the words "this Act" refer to the general Bankruptcy Act or to this section or subsection.

§ 205. Reorganization of railroads engaged in interstate commerce. (a) *Petition for reorganization by railroad, subsidiary or creditors; venue; proceedings thereon; jurisdiction of court over debtor and property.* Any railroad corporation may file a petition stating that it is insolvent or unable to meet its debts as they mature and that it desires to effect a plan of reorganization. The petition shall be filed with the court in whose territorial jurisdiction such corporation, during the preceding six months or the greater portion thereof, has had its principal executive or operating office, and a copy of the petition shall at the same time be filed with the Interstate Commerce Commission (hereinafter called the "Commission"): *Provided*, That when any railroad, although engaged in interstate commerce, lies wholly within one State, such proceedings shall be brought in the Federal district court of the district in which its principal operating office in such State during the preceding six months or the greater portion thereof has been located. The petition shall be accompanied by payment to the clerk of a filing fee of \$100, which shall be in addition to the fees required to be collected by the clerk under other sections of this title. Upon the filing of such a petition, the judge shall enter an order either approving it as properly filed under this section, if satisfied that such petition complies with this section and has been filed in good faith, or dismissing it, if he is not so satisfied. If the petition is so approved, the court in which such order is entered shall, during the pendency of the proceedings under this section and for the purposes thereof, have exclusive jurisdiction of the debtor and its property wherever located, and shall have and may exercise in addition to the powers conferred by this section all the powers, not inconsistent with this section, which a Federal court would have had if it had appointed a receiver in equity of the property of the debtor for any purpose. Process of the court shall extend to and be valid when served in any judicial district. The Supreme Court of the United States shall promulgate rules relating to the service of process outside of the district in which the proceeding is pending, and any other rules which it may deem advisable in order to aid district courts and circuit courts of appeal in exercising the jurisdiction herein conferred upon them. The railroad corporation shall be referred to in the proceedings as a "debtor." Any railroad corporation the majority of the capital stock of which having power to vote for the election of directors is owned, either directly or indirectly through an intervening medium, by any railroad corporation filing a petition as a debtor may file, with the court in which such other debtor has filed such a petition, and in the same proceeding, a petition, a copy of which shall also be filed at the same time with the Commission, stating that it is insolvent or unable to meet its debts as they mature, and that it desires to effect a reorganization in connection with, or as a part of the plan of reorganization of such other debtor; and upon the filing of such petition, the judge shall enter an order either approving it as properly filed under this section, if satisfied that such petition

complies with this section and has been filed in good faith, or dismissing it if not so satisfied, and thereupon such court, if it approves such petition, shall have the same jurisdiction with respect to such debtor, its property and its creditors and stockholders, as the court has with respect to such other debtor. Creditors of any railroad corporation, having claims aggregating not less than 5 per centum of all the indebtedness of such corporation as shown in the latest annual report which it has filed with the Commission at the time when the petition is filed, may, if such corporation has not filed a petition under this section, file with the court in which such corporation might file a petition under this section, a petition stating that such corporation is insolvent or unable to meet its debts as they mature and that such creditors have claims aggregating not less than 5 per centum of all such indebtedness of such corporation and propose that it shall effect a reorganization: copies of such petition shall be filed at the same time with the Commission and served upon such corporation. Such corporation shall, within ten days after such service, answer such petition. If such answer shall admit the jurisdiction of the court and the material allegations of the petition, the judge shall enter an order approving the petition as properly filed if satisfied that it complies with this section and has been filed in good faith, or dismissing it, if not so satisfied. If such answer shall deny either the jurisdiction of the court or any material allegation of the petition the judge shall summarily determine the issues presented by the pleadings without the intervention of a jury and if he shall find that the material allegations are sustained by the proofs and that the petition complies with this section and has been filed in good faith, the judge shall enter an order approving the petition; otherwise he shall dismiss the petition. If any such petition shall be so approved, the proceedings thereon shall continue with like effect as if the railroad corporation had itself filed a petition under this section. In case any petition shall be dismissed, neither the petition nor the answer of a debtor shall constitute an act of bankruptcy or an admission of insolvency or of inability to meet maturing obligations or be admissible in evidence, without the debtor's consent, in any proceedings then or thereafter pending or commenced under this title or in any State or Federal court. If, in any case in which the issues have not already been tried under the provisions of this subdivision, any of the creditors shall, prior to the hearing provided for in paragraph (1) of subsection (c) of this section, appear and controvert the facts alleged in the petition, the judge shall determine, as soon as may be, the issues presented by the pleadings, without the intervention of a jury, and, unless the material allegations of the petition are sustained by the proofs, shall dismiss the petition.

(b) **Plan of reorganization, contents; "securities", "stockholders", "creditors", "claims" defined; suspension of statutes of limitation.** A plan of reorganization within the meaning of this section (1) shall include provisions modifying or altering the rights of creditors generally, or of any class of them, secured or unsecured, either through the issuance of new securities of any character or otherwise; (2) may include provisions modifying or altering the rights of stockholders generally, or of any class of them, either through the issuance of new securities of any character, or otherwise; (3) may include, for the purpose of preserving such interests of creditors and stockholders as are not otherwise provided for, provisions for the issuance to any such creditor or stockholder of options or warrants to receive, or to subscribe for, securities of the reorganized company in such amounts and upon such terms and conditions as may be set forth in the plan; (4) shall provide for fixed charges (including fixed interest on funded debt, interest on unfunded debt, amortization of discount on funded debt, and rent for leased railroads) in such an amount that, after due consideration of the probable prospective earnings of the property in light of its earnings, experience and all other relevant

facts, there shall be adequate coverage of such fixed charges by the probable earnings available for the payment thereof; (5) shall provide adequate means for the execution of the plan, which may include the transfer of any interest in or control of all or any part of the property of the debtor to another corporation or corporations, the merger or consolidation of the debtor with another corporation or corporations, the retention of all or any part of the property by the debtor, the sale of all or any part of the property of the debtor either subject to or free from any lien at not less than a fair upset price, the distribution of all or any assets, or the proceeds derived from the sale thereof, among those having an interest therein, the satisfaction or modification of any liens, indentures, or other similar interests, the curing or waiver of defaults, the extension of maturity dates of outstanding securities, the reduction in principal and/or rate of interest and alteration of other terms of such securities, the amendment of the charter of the debtor, and/or the issuance of securities of either the debtor or any such other corporation or corporations for cash, or in exchange for existing securities, or in satisfaction of claims or rights or for other appropriate purposes; and may deal with all or any part of the property of the debtor; may reject contracts of the debtor which are executory in whole or in part, including unexpired leases; and may include any other appropriate provisions not inconsistent with this section.

The adoption of an executory contract or unexpired lease by the trustee or trustees of a debtor shall not preclude a rejection of such contract or lease in a plan of reorganization approved hereunder, and any claim resulting from such rejection shall not have priority over any other claims against the debtor because such contract or lease had been previously adopted. The term "securities" shall include evidences of indebtedness either secured or unsecured, bonds, stock, certificates of beneficial interest therein, certificates of beneficial interest in property, options, and warrants to receive, or to subscribe for, securities. The term "stockholders" shall include the holders of voting-trust certificates. The term "creditors" shall include, for all purposes of this section all holders of claims of whatever character against the debtor or its property, whether or not such claims would otherwise constitute provable claims under this Act, including the holder of a claim under a contract executory in whole or in part including an unexpired lease.

The term "claims" includes debts, whether liquidated or unliquidated, securities (other than stock and option warrants to subscribe to stock), liens, or other interests of whatever character. For all purposes of this section unsecured claims, which would have been entitled to priority if a receiver in equity of the property of the debtor had been appointed by a Federal court on the day of the approval of the petition, shall be entitled to such priority and the holders of such claims shall be treated as a separate class or classes of creditors. In case an executory contract or unexpired lease of property shall be rejected, or shall not have been adopted by a trustee appointed under this section, or shall have been rejected by a receiver in equity in a proceeding pending prior to the institution of a proceeding under this section, or shall be rejected by any plan, any person injured by such non-adoption or rejection shall for all purposes of this section be deemed to be a creditor of the debtor to the extent of the actual damage or injury determined in accordance with principles obtaining in equity proceedings. The provisions of section 96 of this title shall apply to a proceeding under this section. For all purposes of this section any creditor or stockholder may act in person or by an attorney at law or by a duly authorized agent or committee subject to the provisions of subsection (p) of this section. The running of all statutes of limitation shall be suspended during the pendency of a proceeding under this section.



(c) **Proceedings after approval of petition.** After approving the petition:

(1) The judge shall forthwith (and in pending proceedings immediately upon August 27, 1935) require the debtor to give such notice as the order may direct to the mortgage trustees, creditors and stockholders, and to cause publication thereof for such period and in such newspapers as the judge may direct, or a hearing to be held not later than thirty days after the date of such order, at which hearing or any adjournment thereof the judge shall appoint one or more trustees of the debtor's property. Such appointments shall become effective upon ratification thereof by the Commission without a hearing, unless the Commission shall deem a hearing necessary. Where a trustee is appointed who within one year prior thereto has been an officer, director, or employee of the debtor corporation, any subsidiary corporation, or any holding company connected therewith, the judge, subject to ratification by the Commission as herein provided, shall appoint another trustee or trustees who shall not have had any such affiliations: *Provided*, That the appointment of such additional trustee or trustees shall not be required for a debtor the annual operating revenues of which were less than \$1,000,000 for the previous calendar year.

(2) The judge shall fix the amount of the bond of every trustee. He may thereafter terminate any such appointments on cause shown, and may in that event and in the event of a vacancy from any other cause, in the manner and within the qualifications herein provided for the appointment of trustees, appoint a substitute trustee or trustees, and in the same manner and within the same qualifications may appoint an additional trustee, and shall fix the amount of the bond of every such substitute or additional trustee or trustees. The judge shall in his discretion confirm the appointment of such legal counsel for the trustees as they shall select, with power of removal. The trustee or trustees and their counsel shall receive only such compensation from the estate of the debtor as the judge may from time to time allow within such maximum limits as may be approved by the Commission as reasonable. The trustee or trustees so appointed, upon filing such bond, shall have all the title and shall exercise, subject to the control of the judge and consistently with the provisions of this section, all of the powers of a trustee appointed pursuant to section 72 or any other section of this title, and, to the extent not inconsistent with this section, if authorized by the judge, the powers of a receiver in an equity proceeding, and, subject to the control of the judge and the jurisdiction of the Commission as provided by chapter 1 of Title 49 as on August 27, 1935, or thereafter amended, the power to operate the business of the debtor. Prior to the appointment of a trustee, the debtor on behalf of the court shall continue in the possession of the property and shall operate the business thereof during such period, and shall have all the title to the property and shall exercise all power consistent with the provisions of this section, subject at all times to the control of the judge, and to such limitations, restrictions, terms, and conditions as he may from time to time impose and prescribe.

(3) The judge may, upon not less than fifteen days' notice published in such manner and in such newspapers as the judge may in his discretion determine, which notice so determined shall be sufficient, for cause shown, and with the approval of the Commission, in accordance with section 20a of Title 49, as on August 27, 1935 or thereafter amended, authorize the trustee or trustees to issue certificates for cash, property, or other consideration approved by the judge, for such lawful purposes and upon such terms and conditions and with such security and such priority in payments over existing obligations, secured or unsecured, or receivership charges, as might in an equity receivership be lawful.

(4) The judge shall require the officers of the debtor or the trustee or trustees, at such time or times

as the judge may direct, and in lieu of the schedules required by section 25 of this title, to file with the court such schedules and submit such other information as may be necessary to disclose the conduct of the debtor's affairs and the fairness of any proposed plan; and shall direct the officers of the debtor, or the trustee or trustees, within such time as the judge shall set, to prepare and file with the court a list of all known bondholders and creditors of the debtor, and the amounts and character of their debts, claims, and securities, and the last known post-office address or place of business of each bondholder and creditor, and a list of all known stockholders of the debtor, with the last known post-office address or place of business of each, which lists the judge may require to be brought down to date at any time. The contents of such lists shall not constitute admissions by the debtor or the trustees in a proceeding under this section or otherwise.

(5) It shall be the duty of anyone having information as to the names and addresses of the holders of any securities of the debtor to divulge such information to the trustee or trustees, upon written request therefor and, upon petition by any party in interest, and after hearing, the judge may order the production of any such information by anyone having and refusing to divulge it to any trustee, upon written request therefor. The judge may direct that the cost of preparing such information shall be borne by the debtor's estate.

(6) If a lease of a line of railroad is rejected, and if the lessee, with the approval of the judge, shall elect no longer to operate the leased line, it shall be the duty of the lessor at the end of a period to be fixed by the judge to begin the operation of such line, unless the judge, upon the petition of the lessor, shall decree after hearing that it would be impracticable and contrary to the public interest for the lessor to operate the said line, in which event it shall be the duty of the lessee to continue operation on or for the account of the lessor until the abandonment of such line is authorized by the Commission in accordance with the provisions of section 1 of Title 49.

(7) The judge shall promptly determine and fix a reasonable time within which the claims of creditors may be filed or evidenced and after which no claim not so filed or evidenced may participate except on order for cause shown, the manner in which such claims may be filed or evidenced and allowed, and for the purposes of the plan and its acceptance, after notice and hearing, the division of creditors and stockholders into classes according to the nature of their respective claims and interests. Such division shall not provide for separate classification unless there be substantial differences in priorities, claims, or interests. The trustee or trustees under any mortgage, deed of trust, or indenture outstanding against the property may, within the time prescribed, file a verified claim in behalf of all bonds or securities outstanding under such mortgage, deed of trust, or indenture, in which event it shall be unnecessary for the holders of such bonds or securities to file claims in their own behalf, but nothing herein shall constitute such trustee or trustees the representative or representatives of such holders for the purpose of accepting or rejecting any plan of reorganization.

(8) The judge shall cause reasonable notice of the period in which claims may be filed, of hearings on application for the dismissal of the proceedings, or for the final allowance of fees or expenses to be given creditors and stockholders by publication or otherwise.

(9) The judge shall direct the trustee or trustees, and may request the Commission through such of its agencies as it may designate, to report to him any facts pertaining to irregularities, fraud, misconduct, or mismanagement, as a consequence of which the debtor may have a cause of action arising therefrom against any person or corporation.

(10) The judge may direct the debtor or the trustee or trustees to keep such records and accounts, in

addition to the accounts prescribed by the Commission, as will permit of such a segregation and allocation, as the necessities of the case may require, of the earnings and expenses between and to the divisions and parts of the railroad or other property of the debtor which are separately subject to the liens of the various mortgages or deeds of trust, or are separately subject to lease, and may refer to the Commission for its recommendations after hearings thereon if the parties shall so request and/or the Commission determine necessary or desirable, as to the method or formula by which such segregation and allocation shall be made; and thereafter such segregation and allocation may be made at the expense of the debtor's estate.

(11) The Commission may direct such of its agencies as it may designate to file in the proceedings before the Commission a report, and additional or supplemental reports at such time or times as the Commission shall designate, of such data with reference to the property, business, earnings, and corporate organization of the debtor and such other facts as the Commission, after hearing if it deems necessary, shall determine to be necessary or helpful information for the purposes of the preparation of reorganization plans, and for the purpose of aiding in determining the method or formula of allocating earnings permitted by subdivision (10) of this subsection (c). Such report or reports shall be prima facie evidence of the facts therein stated in any proceeding under this section. The actual cost of preparing said report or reports shall be certified by the Commission and shall be borne by the debtor's estate.

(12) Within such maximum limits as are fixed by the Commission, the judge may make an allowance, to be paid out of the debtor's estate, for the actual and reasonable expenses (including reasonable attorney's fees) incurred in connection with the proceedings and plan by parties in interest and by reorganization managers and committees or other representatives of creditors and stockholders, and within such limits may make an allowance, to be paid out of the debtor's estate for the actual and reasonable expenses incurred in connection with the proceedings and plan and reasonable compensation for services in connection therewith by trustees under indentures, depositaries and such assistants as the Commission with the approval of the judge may especially employ. Appeals from orders of the court fixing such allowances may be taken to the circuit court of appeals independently of other appeals in the proceeding and shall be heard summarily. The Commission shall, at such time or times as it may deem appropriate, after hearing, fix the maximum allowances which may be allowed by the court pursuant to the provisions of paragraph (12) of this subsection (c) and, after hearing if the Commission shall deem it necessary, the maximum compensation which may be allowed by the court pursuant to the provisions of paragraph (2) of this subsection (c).

(13) The judge may on his own motion or at the request of the Commission refer any matters for consideration and report, either generally or upon specified issues, to one of several special masters who shall have been previously designated to act as special masters in any proceedings under this section by order of any circuit court of appeals and may allow such master a reasonable compensation for his services and actual and reasonable expenses. The circuit court of appeals of each circuit shall designate three or more members of the bar as such special masters whom they deem qualified for such services, and shall from time to time revise such designations by changing the persons designated or their number, as the public interest may require: *Provided, however,* That there shall always be three of such special masters qualified for appointment in each circuit who shall hear any matter referred to them under this section by a judge of any district court. The debtor, any creditor or stockholder, or the duly authorized committee, attorney or agent of either or the trustee or

trustees of any mortgage, deed of trust or indenture pursuant to which securities of the debtor are outstanding, shall have the right to be heard on all questions arising in the proceedings, and, upon petition therefor and cause shown, any such person or any other interested party may be permitted to intervene. The judge may, after hearing, make reasonable rules defining the matters upon which notice shall be given to other than interveners and the manner of giving such notice.

(d) **Time for filing plan of reorganization; hearings by Commission; certification of approval to court.** The debtor, after a petition is filed as provided in subsection (a) of this section, shall file a plan of reorganization within six months of the entry of the order by the judge approving the petition as properly filed, or if heretofore approved, then within six months of August 27, 1935, and not thereafter unless such time is extended by the judge from time to time for cause shown, no single extension at any one time to be for more than six months. Such plan shall also be filed with the Commission at the same time. Such plans may likewise be filed at any time before, or with the consent of the Commission during, the hearings hereinafter provided for, by the trustee or trustees, or by or on behalf of the creditors being not less than 10 per centum in amount of any class of creditors, or by or on behalf of any class of stockholders being not less than 10 per centum in amount of any such class, or with the consent of the Commission by any party in interest. After the filing of such a plan, the Commission, unless such plan shall be considered by it to be prima facie impracticable, shall, after due notice to all stockholders and creditors given in such manner as it shall determine, hold public hearings, at which opportunity shall be given to any interested party to be heard, and following which the Commission shall render a report and order in which it shall approve a plan, which may be different from any which has been proposed, that will in its opinion meet with the requirements of subsections (b) and (c) of this section, and will be compatible with the public interest: or it shall render a report and order in which it shall refuse to approve any plan. In such report the Commission shall state fully the reasons for its conclusions.

The Commission may thereafter, upon petition for good cause shown filed within sixty days of the date of its order, and upon further hearings if the Commission shall deem necessary, in a supplemental report and order modify any plan which it has approved, stating the reasons for such modification. The Commission, if it approves a plan, shall thereupon certify the plan to the court together with a transcript of the proceedings before it and a copy of the report and order approving the plan. No plan shall be approved or confirmed by the judge in any proceeding under this section unless the plan shall first have been approved by the Commission and certified to the court.

(e) **Court hearing after approval by Commission; acceptance of plan by creditors and stockholders; confirmation of plan by court; valuation of property.** Upon the certification of a plan by the Commission to the court, the court shall give due notice to all parties in interest of the time within which such parties may file with the court their objections to such plan, and such parties shall file, within such time as may be fixed in said notice, detailed and specific objections in writing to the plan and their claims for equitable treatment. The judge shall, after notice in such manner as he may determine to the debtor, its trustee or trustees, stockholders, creditors, and the Commission, hear all parties in interest in support of, and in opposition to, such objections to the plan and such claims for equitable treatment. After such hearing, and without any hearing if no objections are filed, the judge shall approve the plan if satisfied that: (1) It complies with the provisions of subsection (b) of this section, is fair and equitable, affords due recognition to the rights of each class of creditors and stockhold-



ers does not discriminate unfairly in favor of any class of creditors or stockholders, and will conform to the requirements of the law of the land regarding the participation of the various classes of creditors and stockholders; (2) the approximate amounts to be paid by the debtor, or by any corporation or corporations acquiring the debtor's assets, for expenses and fees incident to the reorganization, have been fully disclosed so far as they can be ascertained at the date of such hearing, are reasonable, are within such maximum limits as are fixed by the Commission, and are within such maximum limits to be subject to the approval of the judge; (3) the plan provides for the payment of all costs of administration and all other allowances made or to be made by the judge, except that allowances provided for in subsection (c), paragraph (12) of this section, may be paid in securities provided for in the plan if those entitled thereto will accept such payment, and the judge is hereby given power to approve the same.

If the judge shall not approve the plan, he shall file an opinion, stating his conclusions and the reason therefor, and he shall enter an order in which he may either dismiss the proceedings, or in his discretion and on motion of any party in interest refer the proceedings back to the Commission for further action, in which event he shall transmit to the Commission a copy of any evidence received. If the proceedings are referred back to the Commission, it shall proceed to a reconsideration of the proceedings under the provisions of subsection (d) of this section. If the judge shall approve the plan, he shall file an opinion, stating his conclusions and the reasons therefor, and enter an order to that effect, and shall send a certified copy of such opinion and order to the Commission. The plan shall then be submitted by the Commission to the creditors of each class whose claims have been filed and allowed in accordance with the requirements of subsection (c) of this section, and to the stockholders of each class, and/or to the committees or other representatives thereof, for acceptance or rejection, within such time as the Commission shall specify, together with the report or reports of the Commission thereon or such a summarization thereof as the Commission may approve, and the opinion and order of the judge: *Provided*, That submission to any class of stockholders shall not be necessary if the Commission shall have found, and the judge shall have affirmed the finding, (a) that at the time of the finding the corporation is insolvent, or that at the time of the finding the equity of such class of stockholders has no value, or that the plan provides for the payment in cash to such class of stockholders of an amount not less than the value of their equity, if any, or (b) that the interests of such class of stockholders will not be adversely and materially affected by the plan, or (c) that the debtor has pursuant to authorized corporate action accepted the plan and its stockholders are bound by such acceptance: *Provided further*, That submission to any class of creditors shall not be necessary if the Commission shall have found, and the judge shall have affirmed the finding, that the interests of such class of creditors will not be adversely and materially affected by the plan, or that at the time of the finding the interests of such class of creditors have no value, or that the plan provides for the payment in cash to such class of creditors of an amount not less than the value of their interests. For the purpose of this section the acceptance or rejection by any creditor or stockholder shall be in writing, executed by him or by his duly authorized attorney, committee, or representative. If the United States of America, or any agency thereof, or any corporation (other than the Reconstruction Finance Corporation) the majority of the stock of which is owned by the United States of America, is a creditor or stockholder, the President of the United States or any officer or agency he may designate, is hereby authorized to act in respect of the interest or claims of the United States or of such agency or other corporation. The expense of such

submission shall be certified by the Commission and shall be borne by the debtor's estate. The Commission shall certify to the judge the results of such submission.

Upon receipt of such certification, the judge shall confirm the plan if satisfied that it has been accepted by or on behalf of creditors of each class to which submission is required under this subsection holding more than two-thirds in amount of the total of the allowed claims of such class which have been reported in said submission as voting on said plan, and by or on behalf of stockholders of each class to which submission is required under this subsection holding more than two-thirds of the stock of such class which has been reported in said submission as voting on said plan; and that such acceptances have not been made or procured by any means forbidden by law: *Provided*, That, if the plan has not been so accepted by the creditors and stockholders, the judge may nevertheless confirm the plan if he is satisfied and finds, after hearing, that it makes adequate provision for fair and equitable treatment for the interests or claims of those rejecting it; that such rejection is not reasonably justified in the light of the respective rights and interests of those rejecting it and all the relevant facts; and that the plan conforms to the requirements of clauses (1) to (3), inclusive, of the first paragraph of this subsection (e). If the judge shall confirm the plan, he shall enter an order and file an opinion with a statement of his conclusions and his reasons therefor. If the judge shall not confirm the plan, he shall file an opinion, with a statement of his conclusions and his reasons therefor, and enter an order in which he shall either dismiss the proceedings, or, in his discretion and on the motion of any party in interest, refer the case back to the Commission for further proceedings, including the consideration of modifications of the plan or the proposal of new plans. In the event of such a reference back to the Commission, the proceedings with respect to any modified or new plan shall be governed by the provisions of this section in like manner as in an original proceeding hereunder.

If it shall be necessary to determine the value of any property for any purpose under this section, the Commission shall determine such value and certify the same to the court in its report on the plan. The value of any property used in railroad operation shall be determined on a basis which will give due consideration to the earning power of the property, past, present, and prospective, and all other relevant facts. In determining such value only such effect shall be given to the present cost of reproduction new and less depreciation and original cost of the property, and the actual investment therein, as may be required under the law of the land, in light of its earning power and all other relevant facts.

**(f) Binding effect of confirmation; discharge of debtor from liabilities; issuance of securities.** Upon confirmation by the judge, the provisions of the plan and of the order of confirmation shall, subject to the right of judicial review, be binding upon the debtor, all stockholders thereof, including those who have not, as well as those who have, accepted it, and all creditors secured or unsecured, whether or not adversely affected by the plan, and whether or not their claims shall have been filed, and, if filed, whether or not approved, including creditors who have not, as well as those who have, accepted it. Upon confirmation of the plan, the debtor and any other corporation or corporations organized or to be organized for the purpose of carrying out the plan, shall have full power and authority to, and shall put into effect and carry out the plan and the orders of the judge relative thereto, under and subject to the supervision and the control of the judge, the laws of any State or the decision or order of any State authority to the contrary notwithstanding. The property dealt with by the plan, when transferred and conveyed to the debtor or to the other corporation or corporations provided for by the plan, or when retained by the debtor pur-

suant to the plan, shall be free and clear of all claims of the debtor, its stockholders and creditors, and the debtor shall be discharged from its debts and liabilities, except such as may consistently with the provisions of the plan be reserved in the order confirming the plan or directing such transfer and conveyance or retention, and the judge may require the trustee or trustees appointed hereunder, the debtor, any mortgagee, the trustee of any obligation of the debtor, and all other proper and necessary parties, to make any such transfer or conveyance, and may require the debtor to join in any such transfer or conveyance made by the trustee or trustees. Upon the termination of the proceedings a final decree shall be entered discharging the trustee or trustees, and making such provisions as may be equitable, by way of injunction or otherwise, and closing the case. Upon confirmation of a plan the Commission shall, without further proceedings, grant authority for the issue of any securities, assumption of obligations, transfer of any property, sale, consolidation or merger of the debtor's property, or pooling of traffic, to the extent contemplated by the plan and not inconsistent with the provisions and purposes of chapter 1 of Title 49 as on August 27, 1935, now or thereafter amended. The provisions of sections 77a to 77aa of Title 15 shall not apply to the issuance, sale, or exchange of any of the following securities, which securities and transactions therein shall, for the purposes of said sections, be treated as if they were specifically mentioned in sections 77c and 77d of Title 15, respectively: (1) All securities issued pursuant to any plan of reorganization confirmed by the judge in accordance with the provisions of this section; (2) all securities issued pursuant to such plan for the purpose of raising money for working capital and other purposes of such plan; (3) all securities issued by the debtor or by the trustee or trustees pursuant to subsection (c), clause (3) of this section; (4) all certificates of deposit representing securities of, or claims against, the debtor, with the exception of such certificates of deposit as are issued by committees not subject to subsection (p) of this section. The provisions of subdivision (a) of section 78n of Title 15 shall not be applicable with respect to any action or matter which is within the provisions of subsection (p) of this section.

(g) **Dismissal of proceedings because of undue delay in reorganization.** If in the light of all the existing circumstances there is undue delay in a reasonably expeditious reorganization of the debtor, the judge, in his discretion, shall, on motion of any party in interest or on his own motion, after hearing and after consideration of the recommendation of the Commission, dismiss the proceedings. Upon the filing of such an order of dismissal, all right, title, or interest of the trustee or trustees shall vest by operation of law in the debtor unless otherwise provided by such order.

(h) **Revenue acts inapplicable to issuance, etc., of securities.** The provisions of sections 901 and 902 of title 26, and the provisions of subdivisions 8 and 9 of schedule A of title VIII of the Revenue Act of 1926 as added by sections 724 and 725 of the Revenue Act of 1932, and any amendments thereto unless specifically providing to the contrary, shall not apply to the issuance, transfer, or exchange of securities or the making or delivery of conveyances to make effective any plan of reorganization confirmed under the provisions of this section.

(i) **Transfer of title between receivers and trustees or to debtor; "Federal Court" defined.** If a receiver or trustee of all or any part of the property of a debtor has been appointed by a Federal or State court, whether before or after August 27, 1935, a petition or answer may be filed under this section at any time thereafter by such debtor, or its creditors as provided in subsection (a) of this section, and if such petition is approved, the trustee or trustees appointed under this section, or the debtor until such trustee or trustees are appointed, shall be entitled forthwith to possession of and be vested with title

to such property, and the judge shall make such orders as he may deem equitable for the protection of obligations incurred by the receiver or receivers or prior trustee or trustees and for the payment of such reasonable administrative expenses and allowances in the prior proceedings as may be fixed by the court appointing such receiver or trustee. Whether or not a receiver or trustee has been appointed by a Federal or State court prior or subsequent to the institution of a proceeding under this section and upon the dismissal of such proceeding under this section, the judge may include in the order of dismissal appropriate provisions directing the trustee or trustees, or the debtor if no trustee has been appointed, at the time of such order of dismissal, to transfer possession of the debtor's property within the territorial jurisdiction of such Federal or State court to the prior receiver or trustee, if a prior receiver or trustee has been so appointed by such Federal or State court, or to a receiver or trustee appointed by such Federal or State court, upon such terms as the court in the proceeding under this section may deem equitable for the protection of the obligations incurred by any trustee or trustees appointed under this section and for the payment of administrative expenses and allowances in the proceeding hereunder. Upon the filing of such order of dismissal all title to the property in the trust estate shall vest as therein provided. For the purposes of this section the words "Federal court" shall include the district courts of the United States and of the Territories and possessions to which this title is or may hereafter be applicable, the Supreme Court of the District of Columbia, and the United States Court of Alaska.

(j) **Restraining or staying commencement or continuation of proceedings against debtor; removal of causes; owners' rights to equipment leased or conditionally sold unaffected.** In addition to the provisions of section 29 of this title for the staying of pending suits against the debtor, the judge may enjoin or stay the commencement or continuation of suits against the debtor until after final decree; and may, upon notice and for cause shown, enjoin or stay the commencement or continuance of any judicial proceeding to enforce any lien upon the estate until after final decree; *Provided*, That suits or claims for damages caused by the operation of trains, busses, or other means of transportation may be filed and prosecuted to judgment in any court of competent jurisdiction and any order staying the prosecution of any such cause of action or appeal shall be vacated. Proceedings under this section prior to its amendment by Act of August 27, 1935, or under this section as amended by such Act, shall not be grounds for the removal of any cause of action to the United States District Court which was not removable before March 3, 1933 and any order removing any cause of action or enjoining the prosecution of any such cause of action in any court is null and void and any cause of action heretofore removed from a State court on account [sic] of this section prior to its amendment by Act of August 27, 1935, shall be remanded to the court from which it was removed. The title of any owner, whether as trustee or otherwise, to rolling-stock equipment leased or conditionally sold to the debtor, and any right of such owner to take possession of such property in compliance with the provisions of any such lease or conditional sale contract, shall not be affected by the provisions of this section.

(k) **Certified copy of order confirming plan or directing conveyance of property as evidence.** A certified copy of the final order confirming a plan of reorganization, or of any other order or decree entered in a proceeding under this section, shall be evidence of the jurisdiction of the court, the regularity of the proceedings, and the fact that the order or decree was made. A certified copy of an order directing the transfer and conveyance of the property dealt with by the plan as provided in subsection (f) of this section, or as specified in an order dismissing the proceedings as provided in subsection (i), shall be

evidence of the transfer and conveyance of title accordingly, and if recorded shall impart the same notice that a deed, if recorded, would impart.

(l) **Jurisdiction of court, duties of debtor and rights of creditors same as in voluntary bankruptcy.** In proceedings under this section and consistent with the provisions thereof, the jurisdiction and powers of the court, the duties of the debtor and the rights and liabilities of creditors, and of all persons with respect to the debtor and its property, shall be the same as if a voluntary petition for adjudication had been filed and a decree of adjudication had been entered on the day when the debtor's petition was filed.

(m) **"Railroad corporation" and "person" defined.** The term "railroad corporation" as used in this section means any common carrier by railroad engaged in the transportation of persons or property in interstate commerce, except a street, a suburban, or interurban electric railway which is not operated as a part of a general railroad system of transportation or which does not derive more than 50 per centum of its operating revenues from the transportation of freight in standard steam railroad freight equipment. Wherever used in this section the term "person" shall include an individual, corporation, partnership, association, joint-stock company, unincorporated organization, or a government or political subdivision thereof.

(n) **Claims of employees for personal injuries and claims of sureties as preferred claims; change in wages or working conditions regulated; moving shops, etc., regulated.** In proceedings under this section, claims for personal injuries to employees of a railroad corporation, claims of personal representatives of deceased employees of a railroad corporation, arising under State or Federal laws, and claims on August 27, 1935 or thereafter payable by sureties upon supersedeas, appeal, attachment, or garnishment bonds executed by sureties without security for and in any action brought against such railroad corporation or trustee appointed pursuant to this section, shall be preferred against and paid out of the assets of such railroad corporation as operating expenses of such railroad. No judge or trustee acting under this title shall change the wages or working conditions of railroad employees except in the manner prescribed in sections 151 to 163 of Title 45, as amended June 21, 1934, or as they may be hereafter amended. No reorganization effected under this title and no order of the court or Commission in connection therewith shall relieve any carrier from the obligation of any final judgment of any Federal or State court rendered prior to January 1, 1929, against such carrier or against one of its predecessors in title, requiring the maintenance of offices, shops, and roundhouses at any place, where such judgment was rendered on account of the making of a valid contract or contracts by such carrier or one of its predecessors in title.

(o) **Abandonment or sale of lines or property.** The trustee or trustees, from time to time, shall determine what lines or portions of lines of railroad and what other property of the debtor, if any, should be abandoned or sold during the pendency of the proceedings in the interest of the debtor's estate and of ultimate reorganization but without unduly or adversely affecting the public interest, and shall present to the judge petitions, in which other parties in interest may join, for authority to abandon or to sell any such property; and upon order of the judge made after a hearing pursuant to such reasonable notice by publication or otherwise as the judge may direct to parties in interest, authorizing any such abandonment or sale, but only with the approval and authorization of the Commission when required by chapter 1 of Title 49, as amended February 23, 1920, or as it may be hereafter amended, the trustee or trustees shall take all steps and carry out all proceedings necessary for the consummation of any such abandonment or sale in accordance with the order of the judge. Any such order of the judge shall be a final order for the purposes of appeal. The judge may order and decree

any sale of property, whether or not incident to an abandonment, under this subsection at public or private sale and subject to or free from liens. The proceeds derived from any such sales shall be received by the trustee or trustees subject, in case the property was sold free from lien, to any liens thereon at the time of sale, and shall be applied or disposed of in such manner as the judge by further order shall direct. The expense of such sale shall be borne in such manner as the judge may determine to be equitable. The judge may order the trustee or trustees of the debtor to deposit such proceeds with any mortgage trustee entitled thereto, to be applied in payment of all or part of such mortgage.

(p) **Solicitation of proxies or authorizations.** It shall be unlawful for any person, during the pendency of proceedings under this section or of receiver-ship proceedings against a railroad corporation in any State or Federal court, (a) to solicit, or permit the use of his name to solicit, from any creditor or shareholder of any railroad corporation by or against whom such proceedings have been instituted, any proxy or authorization to represent any such creditor or shareholder in such proceedings or in any matters relating to such proceedings, or to vote on his behalf for or against, or to consent to or reject, any plan of reorganization proposed in connection with such proceedings; or (b) to use, employ, or act under or pursuant to any such proxy or authorization from any such creditor or shareholder which has been solicited or obtained prior to the institution of such proceedings; or (c) to solicit the deposit by any such creditor, or shareholder, of his claim against or interest in such railroad corporation, or any instrument evidencing the same, under any agreement authorizing anyone other than such depositor to represent such depositor in such proceedings or in any matters relating to such proceedings, including any matters relating to the deposited security or claim; or to vote such claim or interest or to consent to or reject any such plan of reorganization; or (d) to use, employ, or act under or pursuant to any such agreement with such depositor which has been solicited or obtained prior to the institution of such proceedings; unless and until, upon proper application by any person proposing to make such solicitation or to use, employ, or act under or pursuant to such proxies, authorizations, or deposit agreements, and after consideration of the terms and conditions (including provisions governing the compensation and expenses to be received by the applicant, its agents and attorneys, for their services) upon which it is proposed to make such solicitation or to use, employ, or act under or pursuant to such proxies, authorizations, or deposit agreements, the Commission after hearing by order authorizes such solicitation, use, employment, or action: *Provided, however*, That nothing contained in this section shall be applicable to or construed to prohibit any person, when not part of an organized effort, from acting in his own interest, and not for the interest of any other, through a representative or otherwise, or from authorizing a representative to act for him in any of the foregoing matters, or to prohibit groups of not more than twenty-five bona fide holders of securities or claims or groups of mutual institutions from acting together for their own interests and not for others through representatives or otherwise or from authorizing representatives of such groups to act for them in respect to any of the foregoing matters. The Commission shall make such order only if it finds that the terms and conditions upon which such solicitation, use, employment or action is proposed are reasonable, fair, and in the public interest, and conform to such rules and regulations as the Commission may provide. The Commission shall have the power to make such rules and regulations respecting such solicitation, use, employment, or action and with respect to the terms and the provisions of such proxies, authorizations, and deposit agreements, and with respect to such other matters in connection with the administration of this subsection as it deems necessary or

desirable to promote the public interest, and to insure proper practices in the representation of creditors and stockholders through the use of such proxies, authorizations, or deposit agreements and in the solicitation thereof. It shall be unlawful for any person to solicit any such proxy, authorization, or the deposit of any such claim or interest or to use, employ, or act under or pursuant to any such proxy, authorization, or deposit agreement which has been solicited or obtained prior to the institution of such proceedings in violation of the rules and regulations so prescribed.

Every application for authority shall be made in such form and contain such matters as the Commission may prescribe. Every such application shall be made under oath, signed by, or on behalf of, the applicant by a duly authorized agent having knowledge of the matters therein set forth. The Commission may modify any order authorizing such solicitation, use, employment, or action by a supplemental order, but no such modification shall invalidate action previously taken, or rights or obligations which have previously arisen, in conformity with the Commission's prior order or orders authorizing such solicitation, use, employment, or action.

The Commission may, in its discretion, make such investigations as it deems necessary to determine whether any person has violated or is about to violate any provision of this subsection (p) or any rule or regulation thereunder, and may require or permit any person to file with it a statement in writing, under oath, or otherwise as the Commission shall determine, as to all the facts and circumstances concerning the matter to be investigated. The Commission is authorized, in its discretion, to publish information concerning any such violations, and to investigate any such facts, conditions, practices, or matters as it may deem necessary or proper to aid in the enforcement of the provisions of this subsection (p), in the prescribing of rules and regulations thereunder, or in securing information to serve as a basis for recommending further legislation concerning the matters to which this subsection relates.

Any person who willfully violates any provision of this subsection, or any rule or regulation made thereunder the violation of which is made unlawful, or any person who willfully and knowingly makes, or causes to be made, any statement in any application, report, or document required to be filed hereunder or under any rule or regulation authorized hereby, which statement is false or misleading with respect to any material fact, shall be guilty of a misdemeanor, and on conviction in any United States court having jurisdiction, shall be punished by a fine of not less than \$1,000 nor more than \$10,000 or by imprisonment for not less than one year nor more than three years, or by both such fine and imprisonment, in the discretion of the court; but no person shall be subject to imprisonment under this section for the violation of any rule or regulation if he proves that he had no knowledge of such rule or regulation.

The provisions of this subsection (p) shall not be applicable to any person or committee which has begun to solicit, obtain, or use proxies, authorizations, or deposit agreements prior to August 27, 1935, in connection with proceedings under this section as in force prior to such date or receivership proceedings against a railroad then pending in any State or Federal court, unless such person or committee makes application to the Commission and receives authority to act as in this subsection provided, in which event the provisions of this subsection (p) shall be applicable to such person or committee, but such authorization shall not be upon terms which shall invalidate any action theretofore taken, or any rights or obligations which have theretofore arisen: *Provided*, That with respect to committees which are not subject to this subsection (p) the judge shall scrutinize and may disregard any limitations or provisions of any deposit agreements, committee, or other authorizations affecting any creditor or stockholder acting under this section

and may enforce an accounting thereunder or restrain the exercise of any power which he finds to be unfair or not consistent with public policy, including the collection of unreasonably amounts for compensation and expenses.

(q) Application of law granting powers to Commission. The provisions of section 12 of Title 49 shall be applicable to enable the Commission to perform its duties under this section and the provisions of such section shall apply to the debtor, any subsidiary or affiliated company, or any other person as herein defined.

(r) Separability clause. If any provision of this section, or the application thereof to any person or circumstances, is held invalid, the remainder of this section, or application of such provision to other persons or circumstances, shall not be affected thereby.

(s) Pending proceedings as governed by amendment of section. Proceedings pending under this section on August 27, 1935, shall continue under, and be governed by, the provisions of this section as amended by Act of August 27, 1935: *Provided*, That the amendment of this section by Act of August 27, 1935, shall not invalidate any action taken before August 27, 1935, pursuant to this section as it existed prior to such date. (As amended Aug. 27, 1935, c. 774, 49 Stat. 926.)

#### § 207. Corporate reorganizations.

(e) (1) A plan of reorganization shall not be confirmed until it has been accepted in writing, whether before or after the filing of the petition or answer under this section, and such acceptance shall have been filed in the proceeding by or on behalf of creditors holding two thirds in amount of the claims of each class whose claims have been allowed and would be affected by the plan and by or on behalf of stockholders of the debtor holding a majority of the stock of each class: *Provided, however*, That such acceptance shall not be requisite to the confirmation of the plan by any creditor or class of creditors (a) whose claims are not affected by the plan, or (b) if the plan makes provision for the payment of their claims in cash in full, or (c) if provision is made in the plan for the protection of the interests, claims, or liens of such creditor or class of creditors in the manner provided in subdivision (b), clause (5), of this section: *And provided further*, That such acceptance shall not be requisite to the confirmation of the plan by any stockholder or class of stockholders (1) if the judge shall have determined either that the debtor is insolvent, or that the interests of such stockholder or stockholders will not be affected by the plan, or (2) if provision is made in the plan for the protection of the interests of such stockholder or class of stockholders in the manner provided in subdivision (b), clause (4), of this section. With such acceptance there shall be set forth, verified in such manner as the judge shall require, what, if any, contracts of the debtor are executory in whole or in part, and what unexpired leases have been rejected and surrendered. With such acceptance there shall be filed a statement, verified in such manner as the judge shall require, showing what, if any, claims and shares of stock have been purchased or transferred by those accepting the plan after the commencement or in contemplation of the proceeding, and the circumstances of such purchase or transfer: *Provided, however*, That if the judge is satisfied that by reason of the number of securities outstanding and the extent of the public dealing therein the preparation of such a statement would be impractical, he may direct that it be not filed. If the United States of America is a creditor or stockholder, the Secretary of the Treasury is hereby authorized to accept or reject a plan in respect of the interests or claims of the United States. If, in any reorganization proceeding under this section, the United States is a creditor on claims for taxes or customs duties (whether or not the United States has any other interest in, or claim against, the debtor, as creditor or stockholder), no plan which does not pro-

vide for the payment thereof shall be confirmed by the judge except upon the acceptance of a lesser amount by the Secretary of the Treasury certified to the court: *Provided*, That if the Secretary of the Treasury shall fail to accept or reject a plan for more than ninety days after receipt of written notice so to do from the court to which the plan has been proposed, accompanied by a certified copy of the plan, his consent shall be conclusively presumed.

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(n) Nothing contained in this section shall be construed or be deemed to affect or apply to the creditors of any corporation under a mortgage insured pursuant to sections 1701 to 1732 and supplementary thereto or to the stockholders, creditors, or officers of any corporation operating or owning a railroad or rail-

roads, railway or railways, owned in whole or in part by any municipality and/or owned or operated by a municipality, or under any contract to any municipality by or on its behalf or in conjunction with such municipality under any contract, lease, agreement, certificate, or in any other manner provided by law for such operation. *Provided, however*, That this paragraph shall not apply to or affect any corporation or the stockholders, creditors, or officers thereof, if not more than 20 per centum of its operating revenue is derived from such operations.

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(As amended Aug. 20, 1935, c. 577, 49 Stat. 664; Aug. 29, 1935, c. 809, 49 Stat. 935 )

Act Aug. 20, 1935, c. 577, 49 Stat. 664, affected subsection (n) of this section. Act Aug. 29, 1935, c. 809, affected subsection (e), subdivision (1)



## TITLE 12.—BANKS AND BANKING

### Chapter 1.—THE COMPTROLLER OF THE CURRENCY

§ 2. **Comptroller of the currency; appointment; term; salary.** The Comptroller of the Currency shall be appointed by the President, by and with the advice and consent of the Senate, and shall hold his office for a term of five years unless sooner removed by the President, upon reasons to be communicated by him to the Senate; and he shall receive a salary at the rate of \$15,000 a year. (As amended Aug. 23, 1935, c. 614, § 209, 49 Stat. 707.)

### Chapter 2.—NATIONAL BANKS

#### ORGANIZATION AND GENERAL PROVISIONS

##### § 24. Corporate powers of associations.

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Seventh. To exercise by its board of directors or duly authorized officers or agents, subject to law, all such incidental powers as shall be necessary to carry on the business of banking; by discounting and negotiating promissory notes, drafts, bills of exchange, and other evidences of debt; by receiving deposits; by buying and selling exchange, coin, and bullion; by loaning money on personal security; and by obtaining, issuing, and circulating notes according to the provisions of this title. The business of dealing in securities and stock by the association shall be limited to purchasing and selling such securities and stock without recourse, solely upon the order, and for the account of, customers, and in no case for its own account, and the association shall not underwrite any issue of securities or stock: *Provided*, That the association may purchase for its own account investment securities under such limitations and restrictions as the Comptroller of the Currency may by regulation prescribe. In no event shall the total amount of the investment securities of any one obligor or maker, held by the association for its own account, exceed at any time 10 per centum of its capital stock actually paid in and unimpaired and 10 per centum of its unimpaired surplus fund, except that this limitation shall not require any association to dispose of any securities lawfully held by it on August 23, 1935. As used in this section the term "investment securities" shall mean marketable obligations, evidencing indebtedness of any person, copartnership, association, or corporation in the form of bonds, notes and/or debentures commonly known as investment securities under such further definition of the term "investment securities" as may by regulation be prescribed by the Comptroller of the Currency. Except as hereinafter provided or otherwise permitted by law, nothing herein contained shall authorize the purchase by the association for its own account of any shares of stock of any corporation. The limitations and restrictions herein contained as to dealing in, underwriting and purchasing for its own account, investment securities shall not apply to obligations of the United States, or general obligations of any State or of any political subdivision thereof, or obligations issued under authority of chapter 7 of this title, or issued by the Federal Home Loan Banks or the Home Owners' Loan Corporation, or obligations which are insured by the Federal Housing Administrator pursuant to section 1713 of this section, if the debentures to be issued in payment of such insured obligations are guaranteed as to principal and interest by the United States: *Provided*, That in carrying on the business commonly

known as the safe-deposit business the association shall not invest in the capital stock of a corporation organized under the law of any State to conduct a safe-deposit business in an amount in excess of 15 per centum of the capital stock of the association actually paid in and unimpaired and 15 per centum of its unimpaired surplus.

The restrictions of this section as to dealing in investment securities shall take effect one year after June 16, 1933. (As amended Aug. 23, 1935, c. 614, § 308, 49 Stat. 709.)

§ 33. **Consolidation of banks; capital stock; dissenting shareholders.** Any two or more national banking associations located within the same State, county, city, town, or village may, with the approval of the Comptroller of the Currency, consolidate into one association under \* \* \* in the place in which it is located: *And provided further*, That if such consolidation shall be voted for at said meetings by the necessary majorities of the shareholders of each of the associations proposing to consolidate, any shareholder of any of the associations so consolidated, who has voted against such consolidation at the meeting of the association of which he is a shareholder or has given notice in writing at or prior to such meeting to the presiding officer that he dissents from the plan of consolidation, shall be entitled to receive the value of the shares so held by him if and when said consolidation shall be approved by the Comptroller of the Currency, such value to be ascertained as of the date of the Comptroller's approval by an appraisal made by a committee of three persons, one to be selected by the shareholder, one by the directors, and the third by the two so chosen; \* \* \*

Publication of notice and notification by registered mail of the meeting provided for in the foregoing paragraph may be waived by unanimous action of the shareholders of the respective associations. Where a dissenting shareholder has given notice as above provided to the association of which he is a shareholder of his dissent from the plan of consolidation, and the directors thereof fail for more than thirty days thereafter to appoint an appraiser of the value of his shares, said shareholder may request the Comptroller of the Currency to appoint such appraiser to act on the appraisal committee for and on behalf of such association.

If shares, when sold at public auction in accordance with this section, realize a price greater than their final appraised value, the excess in such sale price shall be paid to the shareholder. The consolidated association shall be liable for all liabilities of the respective consolidating associations. In the event one of the appraisers fails to agree with the others as to the value of said shares, then the valuation of the remaining appraisers shall govern. (As amended Aug. 23, 1935, c. 614, § 330, 49 Stat. 718.)

Act Aug. 23, 1935, c. 614, struck out the second proviso down to and including the words "to be ascertained" and substituted in lieu thereof the above second proviso. Said act also added two final paragraphs.

The amendment of June 16, 1933, c. 89, inserted "State" in the words "State, county, city, town, or village," in first sentence.

§ 34a. **Consolidation of State bank, etc., with national bank; capital stock; dissenting shareholders.** \* \* \* nor shall any such consolidated association be removed solely because of the fact that it is a national banking association. If such consolidation shall be voted for at said meetings by the necessary majorities of the shareholders of the association and of the State or other bank proposing to consolidate,



and thereafter the consolidation shall be approved by the Comptroller of the Currency, any shareholder of either the association or the State or other bank so consolidated, who has voted against such consolidation at the meeting of the association of which he is a stockholder, or has given notice in writing at or prior to such meeting to the presiding officer that he dissents from the plan of consolidation, shall be entitled to receive the value of the shares so held by him if and when said consolidation shall be approved by the Comptroller of the Currency, such value to be ascertained as of the date of the Comptroller's approval by an appraisal made by a committee of three persons, \* \* \*

Where a dissenting shareholder has given notice as provided in this section to the bank of which he is a shareholder of his dissent from the plan of consolidation, and the directors thereof fail for more than thirty days thereafter to appoint an appraiser of the value of his shares, said shareholder may request the Comptroller of the Currency to appoint such appraiser to act on the appraisal committee for and on behalf of such bank. In the event one of the appraisers fails to agree with the others as to the value of said shares, then the valuation of the remaining appraisers shall govern. (As amended Aug. 23, 1935, c. 614, § 331, 49 Stat. 719.)

### § 35. Organization of State banks as national banking associations.

The Comptroller of the Currency may, in his discretion and subject to such conditions as he may prescribe, permit such converting bank to retain and carry at a value determined by the Comptroller such of the assets of such converting bank as do not conform to the legal requirements relative to assets acquired and held by national banking associations. (As amended Aug. 23, 1935, c. 614, § 312, 49 Stat. 711.)

Act Aug. 23, 1935, c. 614, added last paragraph to section.

§ 36. Branch banks. The conditions upon which a national banking association may retain or establish and operate a branch or branches are the following:

(c) A national banking association may, with the approval of the Comptroller of the Currency, establish and operate new branches: (1) Within the limits of the city, town or village in which said association is situated, if such establishment and operation are at the time expressly authorized to State banks by the law of the State in question; and (2) at any point within the State in which said association is situated, if such establishment and operation are at the time authorized to State banks by the statute law of the State in question by language specifically granting such authority affirmatively and not merely by implication or recognition, and subject to the restrictions as to location imposed by the law of the State on State banks. In any State in which State banks are permitted by statute law to maintain branches within county or greater limits, if no bank is located and doing business in the place where the proposed agency is to be located, any national banking association situated in such State may, with the approval of the Comptroller of the Currency, establish and operate, without regard to the capital requirements of this section, a seasonal agency in any resort community within the limits of the county in which the main office of such association is located, for the purpose of receiving and paying out deposits, issuing and cashing checks and drafts, and doing business incident thereto: *Provided*, That any permit issued under this sentence shall be revoked upon the opening of a State or national bank in such community. Except as provided in the immediately preceding sentence, no such association shall establish a branch outside of the city, town, or village in which it is situated unless it has a paid-in and unimpaired capital stock of not less than \$500,000: *Provided*, That in States with a popu-

lation of less than one million, and which have no cities located therein with a population exceeding one hundred thousand, the capital shall be not less than \$250,000: *Provided*, That in States with a population of less than one-half million, and which have no cities located therein with a population exceeding fifty thousand, the capital shall not be less than \$100,000. (As amended Aug. 23, 1935, c. 614, § 305, 49 Stat. 708.)

### CAPITAL, STOCK, AND STOCKHOLDERS

§ 51. Requisite of capital and surplus. After June 16, 1933, no national banking association shall be organized with a less capital than \$100,000, except that such associations with a capital of not less than \$50,000 may be organized in any place the population of which does not exceed six thousand inhabitants. No such association shall be organized in a city the population of which exceeds fifty thousand persons with a capital of less than \$200,000, except that in the outlying districts of such a city where the State laws permit the organization of State banks with a capital of \$100,000 or less, national banking associations now organized or hereafter organized may, with the approval of the Comptroller of the Currency, have a capital of not less than \$100,000. No such association shall hereafter be authorized to commence the business of banking until it shall have a paid-in surplus equal to 20 per centum of its capital: *Provided*, That the Comptroller of the Currency may waive this requirement as to a State bank converting into a national banking association, but each such State bank which is converted into a national banking association shall, before the declaration of a dividend on its shares of common stock, carry not less than one-half part of its net profits of the preceding half year to its surplus fund until it shall have a surplus equal to 20 per centum of its capital: *Provided*, That for the purposes of this section any amounts paid into a fund for the retirement of any preferred stock of any such converted State bank out of its net earnings for such half-year period shall be deemed to be an addition to its surplus fund if, upon the retirement of such preferred stock, the amount so paid into such retirement fund for such period may then properly be carried to surplus. In any such case the converted State bank shall be obligated to transfer to surplus the amount so paid into such retirement fund for such period on account of the preferred stock as such stock is retired. (As amended Aug. 23, 1935, c. 614, § 309, 49 Stat. 709.)

Act Aug. 23, 1935, c. 614, added last two sentences to section.

§ 51a. Preferred stock; issuance authorized. Notwithstanding any other provision of law any national banking association may, with the approval of the Comptroller of the Currency and by vote of shareholders owning a majority of the stock of such association, upon not less than five days' notice, given by registered mail pursuant to action taken by its board of directors, issue preferred stock of one or more classes, in such amount and with such par value as shall be approved by said Comptroller, and make such amendments to its articles of association as may be necessary for this purpose; but, in the case of any newly organized national banking association which has not yet issued common stock, the requirement of notice to and vote of shareholders shall not apply. No issue of preferred stock shall be valid until the par value of all stock so issued shall be paid in and notice thereof, duly acknowledged before a notary public by the president, vice president, or cashier of said association, has been transmitted to the Comptroller of the Currency and his certificate obtained specifying the amount of such issue of preferred stock and his approval thereof and that the amount has been duly paid in as a part of the capital of such association; which certificate shall be deemed to be conclusive evidence that such preferred stock



has been duly and validly issued. (As amended Aug. 23, 1935, c. 614, § 336, 49 Stat. 720.)

"§ 1 (a)" following "c. 79" in citation in Code should be omitted.

**§ 51b. Same; dividends; individual liability; voting rights; retirement.**

"§ 1 (b)" following "c. 79" in citation in Code should be omitted.

**§ 51b-1. Same; consideration in determining impairment of capital; dividends; retirement.** If any part of the capital of a national bank, State member bank, or bank applying for membership in the Federal Reserve System consists of preferred stock, the determination of whether or not the capital of such bank is impaired and the amount of such impairment shall be based upon the par value of its stock even though the amount which the holders of such preferred stock shall be entitled to receive in the event of retirement or liquidation shall be in excess of the par value of such preferred stock. If any such bank or trust company shall have outstanding any capital notes or debentures of the type which the Reconstruction Finance Corporation is authorized to purchase pursuant to the provisions of section 51d of this Title, the capital of such bank may be deemed to be unimpaired if the sound value of its assets is not less than its total liabilities, including capital stock, but excluding such capital notes or debentures and any obligations of the bank expressly subordinated thereto. Notwithstanding any other provision of law, the holders of preferred stock issued by a national banking association pursuant to the provisions of section 51d of this Title, shall be entitled to receive such cumulative dividends at a rate not exceeding six per centum per annum on the purchase price received by the association for such stock and, in the event of the retirement of such stock, to receive such retirement price, not in excess of such purchase price plus all accumulated dividends, as may be provided in the articles of association with the approval of the Comptroller of the Currency. If the association is placed in voluntary liquidation, or if a conservator or a receiver is appointed therefor, no payment shall be made to the holders of common stock until the holders of preferred stock shall have been paid in full such amount as may be provided in the articles of association with the approval of the Comptroller of the Currency, not in excess of such purchase price of such preferred stock plus all accumulated dividends. (Aug. 23, 1935, c. 614, § 345, 49 Stat. 722.)

**§ 52. Par value and incidents of stock; transfer of shares.** The capital stock of each association shall be divided into shares of \$100 each, or into shares of such less amount as may be provided in the articles of association, and be deemed personal property, and transferable on the books of the association in such manner as may be prescribed in the by-laws or articles of association. Every person becoming a shareholder by such transfer shall, in proportion to his shares, succeed to all rights and liabilities of the prior holder of such shares; and no change shall be made in the articles of association by which the rights, remedies, or security of the existing creditors of the association shall be impaired.

Certificates hereafter issued representing shares of stock of the association shall state (1) the name and location of the association, (2) the name of the holder of record of the stock represented thereby, (3) the number and class of shares which the certificate represents, and (4) if the association shall issue stock of more than one class, the respective rights, preferences, privileges, voting rights, powers, restrictions, limitations, and qualifications of each class of stock issued shall be stated in full or in summary upon the front or back of the certificates or shall be incorporated by a reference to the articles of association set forth on the front of the certificates. Every certificate shall be signed by the president and the cashier of the association, or by such other officers as the

by laws of the association shall provide, and shall be sealed with the seal of the association.

After August 23, 1935, no certificate evidencing the stock of any such association shall bear any statement purporting to represent the stock of any other corporation, except a member bank or a corporation engaged on June 16, 1934, in holding the bank premises of such association, nor shall the ownership, sale, or transfer of any certificate representing the stock of any such association be conditioned in any manner whatsoever upon the ownership, sale, or transfer of a certificate representing the stock of any other corporation, except a member bank or a corporation engaged on June 16, 1934 in holding the bank premises of such association: *Provided*, That this section shall not operate to prevent the ownership, sale, or transfer of stock of any other corporation being conditioned upon the ownership, sale, or transfer of a certificate representing stock of a national banking association. (As amended Aug. 23, 1935, c. 614, §§ 310 (a), 335, 49 Stat. 710.)

Act Aug. 23, 1935, c. 610, § 310 (a) amended last paragraph of section and § 335 of same act inserted the second paragraph

**§ 59. Reduction of capital by vote of shareholders.**

\* \* \* approved by said Comptroller of the Currency and no shareholder shall be entitled to any distribution of cash or other assets by reason of any reduction of the common capital of any association unless such distribution shall have been approved by the Comptroller of the Currency and by the affirmative vote of at least two-thirds of the shares of each class of stock outstanding, voting as classes. (As amended Aug. 23, 1935, c. 614, § 334, 49 Stat. 720.)

**§ 60. Dividends and surplus funds.** The directors of any association may, semiannually, declare a dividend of so much of the net profits of the association as they shall judge expedient; but each association shall, before the declaration of a dividend on its shares of common stock, carrying not less than one-tenth part of its net profits of the preceding half year to its surplus fund until the same shall equal the amount of its common capital: *Provided*, That for the purposes of this section, any amounts paid into a fund for the retirement of any preferred stock of any such association out of its net earnings for such half-year period shall be deemed to be an addition to its surplus fund if, upon the retirement of such preferred stock, the amount so paid into such retirement fund for such period may then properly be carried to surplus. In any such case the association shall be obligated to transfer to surplus the amounts so paid into such retirement fund for such period on account of the preferred stock as such stock is retired. (As amended Aug. 23, 1935, c. 614, § 315, 49 Stat. 712.)

**§ 61. Right of shareholders to vote; holding company affiliates; voting permits.** In all elections of directors, each shareholder shall have the right to vote the number of shares owned by him for as many persons as there are directors to be elected, or to cumulate such shares and give one candidate as many votes as the number of directors multiplied by the number of his shares shall equal, or to distribute them on the same principle among as many candidates as he shall think fit; and in deciding all other questions at meetings of shareholders, each shareholder shall be entitled to one vote on each share of stock held by him; except that (1) this shall not be construed as limiting the voting rights of holders of preferred stock under the terms and provisions of articles of association, or amendments thereto, adopted pursuant to the provisions of section 51b of this title, (2) in the election of directors, shares of its own stock held by a national bank as sole trustee, whether registered in its own name as such trustee or in the name of its nominee, shall not be voted by the registered owner unless under the terms of the trust the manner in which such shares shall be voted may be determined by a donor or beneficiary of the

trust and unless such donor or beneficiary actually directs how such shares shall be voted, (3) shares of its own stock held by a national bank and one or more persons as trustees may be voted by such other person or persons, as trustees, in the same manner as if he or they were the sole trustee, and (4) shares controlled by any holding company affiliate of a national bank shall not be voted unless such holding company affiliate shall have first obtained a voting permit as hereinafter provided, which permit is in force at the time such shares are voted, but such holding company affiliate may, without obtaining such permit, vote in favor of placing the association in voluntary liquidation or taking any other action pertaining to the voluntary liquidation of such association. Shareholders may vote by proxies duly authorized in writing; but no officer, clerk, teller, or bookkeeper of such bank shall act as proxy; and no shareholder whose liability is past due and unpaid shall be allowed to vote. Whenever shares of stock cannot be voted by reason of being held by the bank as sole trustee, such shares shall be excluded in determining whether matters voted upon by the shareholders were adopted by the requisite percentage of shares.

For the purposes of this section shares shall be deemed to be controlled by a holding company affiliate if they are owned or controlled directly or indirectly by such holding company affiliate, or held by any trustee for the benefit of the shareholders or members thereof.

Any such holding company affiliate may make application to the Board of Governors of the Federal Reserve System for a voting permit entitling it to vote the stock controlled by it at any or all meetings of shareholders of such bank or authorizing the trustee or trustees holding the stock for its benefit or for the benefit of its shareholders so to vote the same. The Federal Reserve Board may, in its discretion, grant or withhold such permit as the public interest may require. In acting upon such application, the Board shall consider the financial condition of the applicant, the general character of its management, and the probable effect of the granting of such permit upon the affairs of such bank, but no such permit shall be granted except upon the following conditions:

\* \* \* \* \*

(c) Notwithstanding the foregoing provisions of this section, after five years after June 16, 1933, (1) any such holding company affiliate the shareholders or members of which shall be individually and severally liable in proportion to the number of shares of such holding company affiliate held by them respectively, in addition to amounts invested therein, for all statutory liability imposed on such holding company affiliate by reason of its control of shares of stock of banks, shall be required only to establish and maintain out of net earnings over and above 6 per centum per annum on the book value of its own shares outstanding a reserve of readily marketable assets in an amount of not less than 12 per centum of the aggregate par value of bank stocks controlled by it, and (2) the assets required by this section to be possessed by such holding company affiliate may be used by it for replacement of capital in banks affiliated with it and for losses incurred in such banks, but any deficiency in such assets resulting from such use shall be made up within such period as the Federal Reserve Board may by regulation prescribe and the provisions of this subsection, instead of subsection (b), shall apply to all holding company affiliates with respect to any shares of bank stock owned or controlled by them as to which there is no statutory liability imposed upon the holders of such bank stock;

\* \* \* \* \*

(As amended Aug. 23, 1935, c. 614, § 311, 49 Stat. 710.)

**§ 64a. Same; limitation on liability.** The additional liability imposed upon shareholders in national banking associations by the provisions of sections 63 and

64 of this title shall not apply with respect to shares in any such association issued after June 16, 1933. Such additional liability shall cease on July 1, 1937, with respect to all shares issued by any association which shall be transacting the business of banking on July 1, 1937: *Provided*, That not less than six months prior to such date, such association shall have caused notice of such prospective termination of liability to be published in a newspaper published in the city, town, or county in which such association is located, and if no newspaper is published in such city, town, or county, then in a newspaper of general circulation therein. If the association fail to give such notice as and when above provided, a termination of such additional liability may thereafter be accomplished as of the date six month [sic] subsequent to publication, in the manner above provided. (As amended Aug. 23, 1935, c. 614, § 304, 49 Stat. 708.)

Amendment of Aug. 23, 1935, c. 614, added last two sentences to section.

## DIRECTORS

**§ 71a. Number of directors; qualifications; penalties.** [Repealed in part.] After one year from June 16, 1933, notwithstanding any other provision of law, the board of directors, board of trustees, or other similar governing body of every national banking association and of every State bank or trust company which is a member of the Federal Reserve System shall consist of not less than five nor more than twenty-five members; and every director, trustee, or other member of such governing body shall be the bona fide owner in his own right of shares of stock of such banking association, State bank or trust company having a par value in the aggregate of not less than \$2,500, unless the capital of the bank shall not exceed \$50,000, in which case he must own in his own right shares having a par value in the aggregate of not less than \$1,500, or unless the capital of the bank shall not exceed \$25,000, in which case he must own in his own right shares having a par value in the aggregate of not less than \$1,000. If any national banking association violates the provisions of this section and continues such violation after thirty days' notice from the Comptroller of the Currency, the said Comptroller may appoint a receiver or conservator therefor, in accordance with the provisions of existing law. If any State bank or trust company which is a member of the Federal Reserve System violates the provisions of this section and continues such violation after thirty days' notice from the Federal Reserve Board, it shall be subject to the forfeiture of its membership in the Federal Reserve System in accordance with the provisions of section 327 of this title. (June 16, 1933, c. 89, § 31, 48 Stat. 194; June 16, 1934, c. 546, § 4, 48 Stat. 971; Aug. 23, 1935, c. 614, § 306, 49 Stat. 708.)

So much of this section as relates to stock ownership by directors, trustees, or members of similar governing bodies of any national banking association, or of any State bank or trust company which is a member of the Federal Reserve System, is repealed by Act Aug. 23, 1935, c. 614, § 306, 49 Stat. 708.

**§ 78. Officers and directors as officers or directors in investment companies; acting as correspondent for investment companies; permits to investment companies to hold deposits for banks.**

No officer, director, or employee of any corporation or unincorporated association, no partner or employee of any partnership, and no individual, primarily engaged in the issue, flotation, underwriting, public sale, or distribution, at wholesale or retail, or through syndicate participation, of stocks, bonds, or other similar securities, shall serve the same time as an officer, director, or employee of any member bank except in limited classes of cases in which the Board of Governors of the Federal Reserve System may allow such service by general regulations when in the judgment of the said Board it would not unduly influence the investment policies of such member bank or the advice

it gives its customers regarding investments. (As amended Aug. 23, 1935, c. 614, § 307, 49 Stat. 709.)

The amendment to this section became effective Jan. 1, 1936.

## REGULATION OF THE BANKING BUSINESS; POWERS AND DUTIES OF NATIONAL BANKS

### § 84. Limit of liability of any person to bank.

(8) Obligations of any person, copartnership, association, or corporation in the form of notes secured by not less than a like amount of bonds or notes of the United States issued since April 24, 1917, or certificates of indebtedness of the United States, treasury bills of the United States, or obligations fully guaranteed both as to principal and interest by the United States, shall (except to the extent permitted by rules and regulations prescribed by the Comptroller of the Currency, with the approval of the Secretary of the Treasury) be subject under this section to a limitation of 15 per centum of such capital and surplus in addition to such 10 per centum of such capital and surplus. (As amended Aug. 23, 1935, c. 614, § 321 (b), 49 Stat. 713.)

§ 85. Rate of interest on loans, discounts and purchases. Any association may take, receive, reserve, and charge on any loan or discount made, or upon any notes, bills of exchange, or other evidences of debt, interest at the rate allowed by the laws of the State, Territory, or District where the bank is located, or at a rate of 1 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal reserve bank in the Federal reserve district where the bank is located, whichever may be the greater, and no more, except that where by the laws of any State a different rate is limited for banks organized under State laws, the rate so limited shall be allowed for associations organized or existing in any such State under this title. When no rate is fixed by the laws of the State, or Territory, or District, the bank may take, receive, reserve, or charge a rate not exceeding 7 per centum, or 1 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal reserve bank in the Federal reserve district where the bank is located, whichever may be the greater, and such interest may be taken in advance, reckoning the days for which the note, bill, or other evidence of debt has to run. The maximum amount of interest or discount to be charged at a branch of an association located outside of the States of the United States and the District of Columbia shall be at the rate allowed by the laws of the country, territory, dependency, province, dominion, insular possession, or other political subdivision where the branch is located. And the purchase, discount, or sale of a bona fide bill of exchange, payable at another place than the place of such purchase, discount, or sale, at not more than the current rate of exchange for sight drafts in addition to the interest, shall not be considered as taking or receiving a greater rate of interest. (As amended Aug. 23, 1935, c. 614, § 314, 49 Stat. 711.)

### RESERVE CITIES: LAWFUL RESERVES

#### § 143. Banks in Alaska and insular possessions; lawful money reserves.

The provisions of this section with reference to reserves against deposits by United States would seem to be superseded by § 462a-1 of this title

## MISCELLANEOUS PROVISIONS REGARDING UNITED STATES BONDS IN RELATION TO NATIONAL BANKS

### § 170. Transfers of bonds; manner of making.

The Comptroller of the Currency may designate one or more persons to countersign in his name and

on his behalf such assignments or transfers of bonds as require his countersignature. (As amended Aug. 23, 1935, c. 614, § 313, 49 Stat. 711.)

Act of Aug. 23, 1935, c. 614, amended section by adding above paragraph to the end thereof.

## VOLUNTARY DISSOLUTION

### § 181. Voluntary dissolution; appointment and removal of liquidating agent or committee; examination.

The shareholders shall designate one or more persons to act as liquidating agent or committee, who shall conduct the liquidation in accordance with law and under the supervision of the board of directors, who shall require a suitable bond to be given by said agent or committee. The liquidating agent or committee shall render annual reports to the Comptroller of the Currency on the 31st day of December of each year showing the progress of said liquidation until the same is completed. The liquidating agent or committee shall also make an annual report to a meeting of the shareholders to be held on the date fixed in the articles of association for the annual meeting, at which meeting the shareholders may, if they see fit, by a vote representing a majority of the entire stock of the bank, remove the liquidating agent or committee and appoint one or more others in place thereof. A special meeting of the shareholders may be called at any time in the same manner as if the bank continued an active bank and at said meeting the shareholders may, by vote of the majority of the stock, remove the liquidating agent or committee. The Comptroller of the Currency is authorized to have an examination made at any time into the affairs of the liquidating bank until the claims of all creditors have been satisfied, and the expense of making such examinations shall be assessed against such bank in the same manner as in the case of examinations made pursuant to sections 481 to 485 of this title. (As amended Aug. 23, 1935, c. 614, § 317, 49 Stat. 712.)

Act Aug. 23, 1935, c. 614, added above new paragraph to end of section.

## RECEIVERSHIP

§ 192. Default in payment of circulating notes. \* \* \* with the Treasurer of the United States for the safe-keeping and prompt payment of the money so deposited: *Provided*. That no security in the form of deposit of United States bonds, or otherwise, shall be required in the case of such parts of the deposits as are insured under section 264 of this title. Such depository shall \* \* \* (As amended Aug. 23, 1935, c. 614, § 339, 49 Stat. 721.)

## Chapter 3.—FEDERAL RESERVE SYSTEM

### DEFINITIONS. ORGANIZATION AND GENERAL PROVISIONS AFFECTING SYSTEM

§ 221a. Same; extension. As used in this chapter—

(a) The terms "banks", "national bank", "national banking association", "member bank", "board", "district", and "reserve bank" shall have the meanings assigned to them in section 221 of this chapter

(b) Except where otherwise specifically provided, the term "affiliate" shall include any corporation, business trust, association, or other similar organization—

(1) Of which a member bank, directly or indirectly, owns or controls either a majority of the voting shares or more than 50 per centum of the number of shares voted for the election of its directors, trustees, or other persons exercising similar functions at the preceding election, or controls in any manner the election of a majority of its directors, trustees, or other persons exercising similar functions; or

(2) Of which control is held, directly or indirectly, through stock ownership or in any other manner, by the shareholders of a member bank who own or control either a majority of the shares of such bank or more than 50 per centum of the number of shares voted for the election of directors of such bank at the preceding election, or by trustees for the benefit of the shareholders of any such bank; or

(3) Of which a majority of its directors, trustees, or other persons exercising similar functions are directors of any one member bank.

(c) The term "holding company affiliate" shall include any corporation, business trust, association, or other similar organization—

(1) Which owns or controls, directly or indirectly, either a majority of the shares of capital stock of a member bank or more than 50 per centum of the number of shares voted for the election of directors of any one bank at the preceding election, or controls in any manner the election of a majority of the directors of any one bank; or

(2) For the benefit of whose shareholders or members all or substantially all the capital stock of a member bank is held by trustees. Notwithstanding the foregoing, the term "holding company affiliate" shall not include (except for the purposes of section 371c of this title) any corporation all of the stock of which is owned by the United States, or any organization which is determined by the Board of Governors of the Federal Reserve System not to be engaged, directly or indirectly, as a business in holding the stock of, or managing or controlling, banks, banking associations, savings banks, or trust companies. (As amended Aug. 23, 1935, c. 614, § 301, 49 Stat. 707.)

Amendment of Aug. 23, 1935, c. 614, affected subsection (c) by adding a final paragraph at the end thereof.

#### § 225. Federal reserve banks.

Jurisdiction of actions by or against Federal reserve banks, see section 632 of this title.

#### § 227. "Banking Act of 1933."

"Chapter 88" in line 2 should be "Chapter 89."

§ 228. Banking Act of 1935. The Act of August 23, 1934, c. 614, 49 Stat. 684, may be cited as the "Banking Act of 1935." (Aug. 23, 1935, c. 614, § 1, 49 Stat. 684.)

Section 346 of the Banking Act of 1935, reads as follows: "If any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of the Act, and the application of such provision to other persons and circumstances, shall not be affected thereby."

### FEDERAL RESERVE BOARD

§ 241. Creation; membership; salaries. The Board of Governors of the Federal Reserve System (hereinafter referred to as the "Board") shall be composed of seven members, to be appointed by the President, by and with the advice and consent of the Senate, after August 23, 1935, for terms of fourteen years except as hereinafter provided, but each appointive member of the Federal Reserve Board in office on such date shall continue to serve as a member of the Board until February 1, 1936, and the Secretary of the Treasury and the Comptroller of the Currency shall continue to serve as members of the Board until February 1, 1936. In selecting the members of the Board, not more than one of whom shall be selected from any one Federal Reserve district, the President shall have due regard to a fair representation of the financial, agricultural, industrial, and commercial interests, and geographical divisions of the country. The members of the Board shall devote their entire time to the business of the Board and shall each receive an annual salary of \$15,000, payable monthly, together with actual necessary traveling expenses. (As amended Aug. 23, 1935, c. 614, § 203 (b), 49 Stat. 704.)

Change of name of Federal Reserve Board.—Section 203 (a) of the Act of Aug. 23, 1935, c. 614, § 203 (a), 49 Stat. 704, provided as follows: "Hereafter the Federal Reserve Board shall be known as the 'Board of Governors of the Federal

Reserve System', and the governor and the vice governor of the Federal Reserve Board shall be known as the 'chairman' and the 'vice chairman', respectively, of the Board of Governors of the Federal Reserve System."

§ 242. Ineligibility to hold office in member banks; qualifications and terms of office of members; governor and vice governor; office for board; oath of office. The members of the Board shall be ineligible during the time they are in office and for two years thereafter to hold any office, position, or employment in any member bank, except that this restriction shall not apply to a member who has served the full term for which he was appointed. Upon the expiration of the term of any appointive member of the Federal Reserve Board in office on August 23, 1935, the President shall fix the term of the successor to such member at not to exceed fourteen years, as designated by the President at the time of nomination, but in such manner as to provide for the expiration of the term of not more than one member in any two-year period, and thereafter each member shall hold office for a term of fourteen years from the expiration of the term of his predecessor, unless sooner removed for cause by the President. Of the persons thus appointed, one shall be designated by the President as chairman and one as vice chairman of the Board, to serve as such for a term of four years. The chairman of the Board, subject to its supervision, shall be its active executive officer. Each member of the Board shall within fifteen days after notice of appointment make and subscribe to the oath of office. Upon the expiration of their terms of office, members of the Board shall continue to serve until their successors are appointed and have qualified. Any person appointed as a member of the Board after August 23, 1935 shall not be eligible for reappointment as such member after he shall have served a full term of fourteen years. (As amended Aug. 23, 1935, c. 614, § 203 (b), 49 Stat. 704.)

§ 244. Principal offices of board; chairman of board; obligations and expenses; qualifications of members; vacancies. The principal offices of the Board shall be in the District of Columbia. At meetings of the Board the chairman shall preside, and, in his absence, the vice chairman shall preside. In the absence of the chairman and the vice chairman, the Board shall elect a member to act as chairman pro tempore. The Board shall determine and prescribe the manner in which its obligations shall be incurred and its disbursements and expenses allowed and paid, and may leave on deposit in the Federal Reserve banks the proceeds of assessments levied upon them to defray its estimated expenses and the salaries of its members and employees, whose employment, compensation, leave, and expenses shall be governed solely by the provisions of this chapter and rules and regulations of the Board not inconsistent therewith; and funds derived from such assessments shall not be construed to be Government funds or appropriated moneys. No member of the Federal Reserve Board shall be an officer or director of any bank, banking institution, trust company, or Federal Reserve bank or hold stock in any bank, banking institution, or trust company; and before entering upon his duties as a member of the Federal Reserve Board he shall certify under oath that he has complied with this requirement, and such certification shall be filed with the secretary of the Board. Whenever a vacancy shall occur, other than by expiration of term, among the six members of the Federal Reserve Board appointed by the President as above provided, a successor shall be appointed by the President, by and with the advice and consent of the Senate, to fill such vacancy, and when appointed he shall hold office for the unexpired term of his predecessor. (As amended Aug. 23, 1935, c. 614, § 203 (c), 49 Stat. 705.)

§ 247a. Records of action on policy relating to open-market operation and policies determined generally; inclusion in report to Congress. The Board of Governors of the Federal Reserve System shall

keep a complete record of the action taken by the Board and by the Federal Open Market Committee upon all questions of policy relating to open-market operations and shall record therein the votes taken in connection with the determination of open-market policies and the reasons underlying the action of the Board and the Committee in each instance. The Board shall keep a similar record with respect to all questions of policy determined by the Board, and shall include in its annual report to the Congress a full account of the action so taken during the preceding year with respect to open-market policies and operations and with respect to the policies determined by it and shall include in such report a copy of the records required to be kept under the provisions of this paragraph. (Dec. 23, 1913, c. 6, § 10, as added Aug. 23, 1935, c. 614, § 203 (d), 49 Stat. 705.)

#### § 248. Enumerated powers.

(k) Permitting national banks to act as trustees, etc.

National Banks exercising any or all of the powers \* \* \* The State banking authorities may have access to reports of examination made by the Comptroller of the Currency insofar as such reports relate to the trust department of such bank, but nothing in this chapter shall be construed as authorizing the State banking authorities to examine the books, records, and assets of such bank.

(m) Percentage of capital and surplus represented by loans; determination by Board. Upon the affirmative vote of not less than six of its members the Federal Reserve Board shall have power to fix from time to time for each Federal reserve district the percentage of individual bank capital and surplus which may be represented by loans secured by stock or bond collateral made by member banks within such district, but no such loan shall be made by any such bank to any person in an amount in excess of 10 per centum of the unimpaired capital and surplus of such bank: *Provided*, That with respect to loans represented by obligations in the form of notes secured by not less than a like amount of bonds or notes of the United States issued since April 24, 1917, certificates of indebtedness of the United States, Treasury bills of the United States, or obligations fully guaranteed both as to principal and interest by the United States, such limitation of 10 per centum on loans to any person shall not apply, but State member banks shall be subject to the same limitations and conditions as are applicable in the case of national banks under paragraph (8) of section 84 of this title. Any percentage so fixed by the Federal Reserve Board shall be subject to change from time to time upon ten days' notice, and it shall be the duty of the Board to establish such percentages with a view to preventing the undue use of bank loans for the speculative carrying of securities. The Federal Reserve Board shall have power to direct any member bank to refrain from further increase of its loans secured by stock or bond collateral for any period up to one year under penalty of suspension of all rediscount privileges at Federal reserve banks. (As amended Aug. 23, 1935, c. 614, §§ 321 (a), 342, 49 Stat. 713, 722.)

Act Aug. 23, 1935, c. 614, inserted proviso at end of first sentence of subsection (m).

Act Aug. 23, 1935, c. 614, amended the last sentence of the third paragraph of subsection (k).

#### FEDERAL OPEN MARKET COMMITTEE

§ 263. Federal Open Market Committee; creation; membership; regulations governing open market transactions. (a) There is hereby created a Federal Open Market Committee (hereinafter referred to as the "Committee"), which shall consist of the members of the Board of Governors of the Federal Re-

serve System and five representatives of the Federal Reserve banks to be selected as hereinafter provided. Such representatives of the Federal Reserve banks shall be elected annually as follows: One by the boards of directors of the Federal Reserve Banks of Boston and New York, one by the boards of directors of the Federal Reserve Banks of Philadelphia and Cleveland, one by the boards of directors of the Federal Reserve Banks of Chicago and Saint Louis, one by the boards of directors of the Federal Reserve Banks of Richmond, Atlanta, and Dallas, and one by the boards of directors of the Federal Reserve Banks of Minneapolis, Kansas City, and San Francisco. An alternate to serve in the absence of each such representative shall be elected annually in the same manner. The meetings of said Committee shall be held at Washington, District of Columbia, at least four times each year upon the call of the chairman of the Board of Governors of the Federal Reserve System or at the request of any three members of the Committee.

(b) No Federal Reserve bank shall engage or decline to engage in open-market operations under sections 353 to 359 of this title except in accordance with the direction of and regulations adopted by the Committee. The Committee shall consider, adopt, and transmit to the several Federal Reserve banks, regulations relating to the open-market transactions of such banks.

(c) The time, character, and volume of all purchases and sales of paper described in sections 353 to 359 of this title as eligible for open-market operations shall be governed with a view to accommodating commerce and business and with regard to their bearing upon the general credit situation of the country. (As amended Aug. 23, 1935, c. 614, § 205, 49 Stat. 705.)

#### FEDERAL DEPOSIT INSURANCE CORPORATION

##### § 264. Federal Deposit Insurance Corporation.

(a) Creation; duties. There is hereby created a Federal Deposit Insurance Corporation (hereinafter referred to as the "Corporation") which shall insure, as hereinafter provided, the deposits of all banks which are entitled to the benefits of insurance under this section, and which shall have the powers herein-after granted.

(b) Directors; appointment; qualifications; terms of office and compensation; office or ownership of stock in banking institution forbidden. The management of the Corporation shall be vested in a board of directors consisting of three members, one of whom shall be the Comptroller of the Currency, and two of whom shall be citizens of the United States to be appointed by the President, by and with the advice and consent of the Senate. One of the appointive members shall be the chairman of the board of directors of the Corporation and not more than two of the members of such board of directors shall be members of the same political party. Each such appointive member shall hold office for a term of six years and shall receive compensation at the rate of \$10,000 per annum, payable monthly out of the funds of the Corporation, but the Comptroller of the Currency shall not receive additional compensation for his services as such member. In the event of a vacancy in the office of the Comptroller of the Currency, and pending the appointment of his successor, or during the absence of the Comptroller from Washington, the Acting Comptroller of the Currency shall be a member of the board of directors in the place and stead of the Comptroller. In the event of a vacancy in the office of the chairman of the board of directors, and pending the appointment of his successor, the Comptroller of the Currency shall act as chairman. The Comptroller of the Currency shall be ineligible during the time he is in office and for two years thereafter to hold any office, position, or employment in any insured bank. The appointive members of the board of directors shall be ineligible during the time they are in office and for two years thereafter to hold

any office, position, or employment in any insured bank, except that this restriction shall not apply to any appointive member who has served the full term for which he was appointed. No member of the board of directors shall be an officer or director of any bank, banking institution, trust company, or Federal Reserve bank or hold stock in any bank, banking institution, or trust company; and before entering upon his duties as a member of the board of directors he shall certify under oath that he has complied with this requirement and such certification shall be filed with the secretary of the board of directors. No member of the board of directors serving on the board of directors on the effective date shall be subject to any of the provisions of the three preceding sentences until the expiration of his present term of office.

(c) **Definitions.** As used in this section—

(1) The term "State bank" means any bank, banking association, trust company, savings bank, or other banking institution which is engaged in the business of receiving deposits and which is incorporated under the laws of any State, Hawaii, Alaska, Puerto Rico, or the Virgin Islands, or which is operated under the Code of Law for the District of Columbia (except a national bank), and includes any unincorporated bank the deposits of which are insured on the effective date under the provisions of this section.

(2) The term "State member bank" means any State bank which is a member of the Federal Reserve System, and the term "State nonmember bank" means any State bank which is not a member of the Federal Reserve System.

(3) The term "District bank" means any State bank operating under the Code of Law for the District of Columbia.

(4) The term "national member bank" means any national bank located in any of the States of the United States, the District of Columbia, Hawaii, Alaska, Puerto Rico, or the Virgin Islands which is a member of the Federal Reserve System.

(5) The term "national nonmember bank" means any national bank located in Hawaii, Alaska, Puerto Rico, or the Virgin Islands which is not a member of the Federal Reserve System.

(6) The term "mutual savings bank" means a bank without capital stock transacting a savings bank business, the net earnings of which inure wholly to the benefit of its depositors after payment of obligations for any advances by its organizers.

(7) The term "savings bank" means a bank (other than a mutual savings bank) which transacts its ordinary banking business strictly as a savings bank under State laws imposing special requirements on such banks governing the manner of investing their funds and of conducting their business: *Provided*, That the bank maintains, until maturity date or until withdrawn, all deposits made with it (other than funds held by it in a fiduciary capacity) as time savings deposits of the specific term type or of the type where the right is reserved to the bank to require written notice before permitting withdrawal: *Provided further*, That such bank to be considered a savings bank must elect to become subject to regulations of the Corporation with respect to the redeposit of maturing deposits and prohibiting withdrawal of deposits by checking except in cases where such withdrawal is permitted by law on the effective date from specifically designated deposit accounts totaling not more than 15 per centum of the bank's total deposits.

(8) The term "insured bank" means any bank the deposits of which are insured in accordance with the provisions of this section; and the term "noninsured bank" means any bank the deposits of which are not so insured.

(9) The term "new bank" means a new national banking association organized by the Corporation to assume the insured deposits of an insured bank closed on account of inability to meet the demands of its depositors and otherwise to perform temporarily the functions prescribed in this section.

(10) The term "receiver" includes a receiver, liquidating agent, conservator, commission, person, or other agency charged by law with the duty of winding up the affairs of a bank.

(11) The term "board of directors" means the board of directors of the Corporation.

(12) The term "deposit" means the unpaid balance of money or its equivalent received by a bank in the usual course of business and for which it has given or is obligated to give credit to a commercial, checking, savings, time or thrift account, or which is evidenced by its certificate of deposit, and trust funds held by such bank whether retained or deposited in any department of such bank or deposited in another bank, together with such other obligations of a bank as the board of directors shall find and shall prescribe by its regulations to be deposit liabilities by general usage: *Provided*, That any obligation of a bank which is payable only at an office of the bank located outside the States of the United States, the District of Columbia, Hawaii, Alaska, Puerto Rico, and the Virgin Islands, shall not be a deposit for any of the purposes of this section or be included as a part of total deposits or of an insured deposit: *Provided further*, That any insured bank having its principal place of business in any of the States of the United States or in the District of Columbia which maintains a branch in Hawaii, Alaska, Puerto Rico, or the Virgin Islands may elect to exclude from insurance under this section its deposit obligations which are payable only at such branch, and upon so electing the insured bank with respect to such branch shall comply with the provisions of this section applicable to the termination of insurance by nonmember banks: *Provided further*, That the bank may elect to restore the insurance to such deposits at any time its capital stock is unimpaired.

(13) The term "insured deposit" means the net amount due to any deposit or deposits in an insured bank (after deducting offsets) less any part thereof which is in excess of \$5,000. Such net amount shall be determined according to such regulations as the board of directors may prescribe, and in determining the amount due to any depositor there shall be added together all deposits in the bank maintained in the same capacity and the same right for his benefit either in his own name or in the names of others, except trust funds which shall be insured as provided in paragraph (9) of subsection (h) of this section.

(14) The term "transferred deposit" means a deposit in a new bank or other insured bank made available to a depositor by the Corporation as payment of the insured deposit of such depositor in a closed bank, and assumed by such new bank or other insured bank.

(15) The term "branch" includes any branch bank, branch office, branch agency, additional office, or any branch place of business located in any State of the United States or in Hawaii, Alaska, Puerto Rico, or the Virgin Islands at which deposits are received or checks paid or money lent.

(16) The term "effective date" means August 23, 1935.

(d) **Capital stock; subscription by United States and Federal reserve banks; voting rights; dividends.** There is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$150,000,000, which shall be available for payment by the Secretary of the Treasury for capital stock of the Corporation in an equal amount, which shall be subscribed for by him on behalf of the United States. Payments upon such subscription shall be subject to call in whole or in part by the board of directors of the Corporation. Such stock shall be in addition to the amount of capital stock required to be subscribed for by Federal Reserve banks. Receipts for payments by the United States for or on account of such stock shall be issued by the Corporation to the Secretary of the Treasury and shall be evidence of the stock ownership of the



United States. Every Federal Reserve bank shall subscribe to shares of stock in the Corporation to an amount equal to one-half of the surplus of such bank on January 1, 1933, and its subscriptions shall be accompanied by a certified check payable to the Corporation in an amount equal to one-half of such subscription. The remainder of such subscription shall be subject to call from time to time by the board of directors upon ninety days' notice. The capital stock of the Corporation shall consist of the shares subscribed for prior to August 23, 1935. Such stock shall be without nominal or par value, and shares issued prior to August 23, 1935 shall be exchanged and re-issued at the rate of one share for each \$100 paid into the Corporation for capital stock. The consideration received by the Corporation for the capital stock shall be allocated to capital and to surplus in such amounts as the board of directors shall prescribe. Such stock shall have no vote and shall not be entitled to the payment of dividends.

**(e) Insured banks; certificate of Comptroller of Currency authorizing transaction of banking business.**

(1) Every operating State or national member bank, including a bank incorporated since March 10, 1933, licensed on or before August 23, 1935 by the Secretary of the Treasury shall be and continue to be, without application or approval, an insured bank and shall be subject to the provisions of this section.

(2) After August 23, 1935, every national member bank which is authorized to commence or resume the business of banking, and every State bank which is converted into a national member bank or which becomes a member of the Federal Reserve System, shall be an insured bank from the time it is authorized to commence or resume business or becomes a member of the Federal Reserve System. The certificate herein prescribed shall be issued to the Corporation by the Comptroller of the Currency in the case of such national member bank, or by the Board of Governors of the Federal Reserve System in the case of such State member bank: *Provided*, That in the case of an insured bank which is admitted to membership in the Federal Reserve System or an insured State bank which is converted into a national member bank, such certificate shall not be required, and the bank shall continue as an insured bank. Such certificate shall state that the bank is authorized to transact the business of banking in the case of a national member bank, or is a member of the Federal Reserve System in the case of a State member bank, and that consideration has been given to the factors enumerated in subsection (g) of this section.

**(f) Members of temporary deposit insurance fund and fund for mutuals as insured banks; application of nonmember banks.**

(1) Every bank which is not a member of the Federal Reserve System which on June 30, 1935 was or thereafter became a member of the Temporary Federal Deposit Insurance Fund or of the Fund For Mutuals heretofore created pursuant to the provisions of this section, shall be and continue to be, without application or approval, an insured bank and shall be subject to the provisions of this section: *Provided*, That any State nonmember bank which was admitted to the said Temporary Federal Deposit Insurance Fund or the Fund For Mutuals but which did not file on or before August 23, 1935 an October 1, 1934 certified statement and make the payments thereon required by law, shall cease to be an insured bank on August 31, 1935: *Provided further*, That no bank admitted to the said Temporary Federal Deposit Insurance Fund or the Fund For Mutuals prior to August 23, 1935 shall, after August 31, 1935, be an insured bank or have its deposits insured by the Corporation, if such bank shall have permanently discontinued its banking operations prior to August 23, 1935.

(2) Subject to the provisions of this section, any national nonmember bank, upon application by the bank and certification by the Comptroller of the Currency in the manner prescribed in subsection (e) of this section, and any State nonmember bank, upon

application to and examination by the Corporation and approval by the board of directors, may become an insured bank. Before approving the application of any such State nonmember bank, the board of directors shall give consideration to the factors enumerated in subsection (g) of this section and shall determine, upon the basis of a thorough examination of such bank, that its assets in excess of its capital requirements are adequate to enable it to meet all its liabilities to depositors and other creditors as shown by the books of the bank.

**(g) Factors considered in issuing certificate to do business.** The factors to be enumerated in the certificate required under subsection (e) and to be considered by the board of directors under subsection (f) shall be the following: The financial history and condition of the bank, the adequacy of its capital structure, its future earnings prospects, the general character of its management, the convenience and needs of the community to be served by the bank, and whether or not its corporate powers are consistent with the purposes of this section.

**(h) Assessment rate and amount; certified statements showing assessment base and amounts due; payment; credit of moneys due from Funds on assessments; action by Corporation to recover assessments; forfeiture of rights for failure to comply with law; insurance of trust funds.** (1) The assessment rate shall be one-twelfth of 1 per centum per annum. The semiannual assessment for each insured bank shall be in the amount of the product of one-half the annual assessment rate multiplied by an assessment base which shall be the average for six months of the differences at the end of each calendar day between the total amount of liability of the bank for deposits (according to the definition of the term "deposit" in and pursuant to paragraph (12) of subsection (c) of this section, without any deduction for indebtedness of depositors) and the total of such uncollected items as are included in such deposits and credited subject to final payment: *Provided, however*, That the daily total of such uncollected items shall be determined according to regulations prescribed by the board of directors upon a consideration of the factors of general usage and ordinary time of availability, and for the purposes of such deduction no item shall be regarded as uncollected for longer periods than those prescribed by such regulations. Each insured bank shall, as a condition to the right to deduct any specific uncollected item in determining its assessment base, maintain such records as will readily permit verification of the correctness of the particular deduction claimed. The certified statements required to be filed with the Corporation under paragraphs (2), (3), and (4) of this subsection shall be in such form and set forth such supporting information as the board of directors shall prescribe. The assessment payments required from insured banks under paragraphs (2), (3), and (4) of this subsection shall be made in such manner and at such time or times as the board of directors shall prescribe, provided the time or times so prescribed shall not be later than sixty days after filing the certified statement setting forth the amount of the assessment. In the event that a separate Fund For Mutuals is established as provided in subsection (1), the board of directors from time to time may fix a lower assessment rate operative for such period as the board may determine which shall be applicable to insured mutual savings banks only, and the remainder of this paragraph shall not be applicable to such banks.

(2) On or before the 15th day of July of each year, each insured bank shall file with the Corporation a certified statement under oath showing for the six months ending on the preceding June 30 the amount of the assessment base and the amount of the semiannual assessment due to the Corporation, determined in accordance with paragraph (1) of this subsection. Each insured bank shall pay to the Corporation the amount of the semiannual assessment it is required to certify. On or before the 15th day of

January of each year after 1936 each insured bank shall file with the Corporation a similar certified statement for the six months ending on the preceding December 31 and shall pay to the Corporation the amount of the semiannual assessment it is required to certify.

(3) Each bank which becomes an insured bank according to the provisions of subsection (e) or (f) of this section shall, on or before the 15th day of November 1935, file with the Corporation a certified statement under oath showing the amount of the assessment due to the Corporation for the period ending December 31, 1935, which shall be an amount equal to the product of one-third the annual assessment rate multiplied by the assessment base determined in accordance with paragraph (1) of this subsection, except that the assessment base shall be the average for the 31 days in the month of October 1935, and payment shall be made to the Corporation of the amount of the assessment so required to be certified. Each such bank shall, on or before the 15th day of January 1936, file with the Corporation a certified statement under oath showing the amount of the semiannual assessment due to the Corporation for the period ending June 30, 1936, which shall be an amount equal to the product of one-half the annual assessment rate multiplied by the assessment base determined in accordance with paragraph (1) of this subsection, except that the assessment base shall be the average for the days of the months of October, November and December of 1935, and payment shall be made to the Corporation of the amount of the assessment so required to be certified.

(4) Each bank which becomes an insured bank after August 23, 1935 shall be relieved from complying with the provisions of paragraph (2) of this subsection until it has operated as an insured bank for a full semiannual period ending on June 30 or December 31 as the case may be. Each such bank, on or before the forty-fifth day after its first day of operation as an insured bank, shall file with the Corporation its first certified statement which shall be under oath and shall show the amount of the assessment base determined in accordance with paragraph (1) of this subsection, except that the assessment base shall be the average for the first thirty-one calendar days it operates as an insured bank. Each such certified statement shall also show as the amount of the first assessment due to the Corporation the prorated portion (for the period between its first day of operation as an insured bank and the next succeeding last day of June or December, as the case may be) of an amount equal to the product of one-half the annual assessment rate multiplied by the base required to be set forth on its first certified statement. Each bank which becomes an insured bank after the effective date which has not operated as an insured bank for a full semiannual period ending on June 30 or December 31, as the case may be, shall, on or before the 15th day of the first month thereafter (except that banks becoming insured in June or December shall have thirty-one additional days) file with the Corporation its second certified statement under oath showing the amount of the assessment base and the amount of the semiannual assessment due to the Corporation. Such assessment base and amount shall be determined in accordance with paragraph (1) of this subsection, except that if the bank became an insured bank in the month of December or June the assessment base shall be the average for the first thirty-one calendar days it operates as an insured bank, and except that if it became an insured bank in any other month than December or June the assessment base shall be the average for the days between its first day of operation as an insured bank and the next succeeding last day of June or December, as the case may be. Each bank required to file a certified statement under this paragraph shall pay to the Corporation the amount of the assessment the bank is required to certify.

(5) Each bank which shall be and continue without application or approval an insured bank in accordance

with the provisions of subsection (e) or (f) of this section, shall, in lieu of all right to refund (except as authorized in paragraph (3) of subsection (1)), be credited with any balance to which such bank shall become entitled upon the termination of the said Temporary Federal Deposit Insurance Fund or the Fund For Mutuals. The credit shall be applied by the Corporation toward the payment of the assessment next becoming due from such bank and upon succeeding assessments until the credit is exhausted.

(6) Any insured bank which fails to file any certified statement required to be filed by it in connection with determining the amount of any assessment payable by the bank to the Corporation may be compelled to file such statement by mandatory injunction or other appropriate remedy in a suit brought for such purpose by the Corporation against the bank and any officer or officers thereof in any court of the United States of competent jurisdiction in the district or territory in which such bank is located.

(7) The Corporation, in a suit brought at law or in equity in any court of competent jurisdiction, shall be entitled to recover from any insured bank the amount of any unpaid assessment lawfully payable by such insured bank to the Corporation, whether or not such bank shall have filed any such certified statement and whether or not suit shall have been brought to compel the bank to file any such statement.

(8) Should any national member bank or any insured national nonmember bank fail to file any certified statement required to be filed by such bank under any provision of this subsection, or fail to pay any assessment required to be paid by such bank under any provision of this section, and should the bank not correct such failure within thirty days after written notice has been given by the Corporation to an officer of the bank, citing this paragraph, and stating that the bank has failed to file or pay as required by law, all the rights, privileges, and franchises of the bank granted to it under chapter 2 of this title or under the provisions of this chapter, shall be thereby forfeited. Whether or not the penalty provided in this paragraph has been incurred shall be determined and adjudged in the manner provided in the sixth paragraph of section 501a of this title. The remedies provided in this paragraph and in the two preceding paragraphs shall not be construed as limiting any other remedies against any insured bank, but shall be in addition thereto.

(9) Trust funds held by an insured bank in a fiduciary capacity whether held in its trust or deposited in any other department or in another bank shall be insured in an amount not to exceed \$5,000 for each trust estate, and when deposited by the fiduciary bank in another insured bank such trust funds shall be similarly insured to the fiduciary bank according to the trust estates represented. Notwithstanding any other provision of this section, such insurance shall be separate from and additional to that covering other deposits of the owners of such trust funds or the beneficiaries of such trust estates: *Provided*, That where the fiduciary bank deposits any of such trust funds in other insured banks, the amount so held by other insured banks on deposit shall not for the purpose of any certified statement required under paragraph (2), (3), or (4) of this subsection be considered to be a deposit liability of the fiduciary bank, but shall be considered to be a deposit liability of the bank in which such funds are so deposited by such fiduciary bank. The board of directors shall have power by regulation to prescribe the manner of reporting and of depositing such trust funds.

(1) Termination of status as insured bank; termination of membership of state bank in Federal Reserve System on losing insured status; receivership for national bank on losing insured status. (1) Any insured bank (except a national member bank or State member bank) may, upon not less than ninety days' written notice to the Corporation, and to the Reconstruction Finance Corporation if it owns or holds as pledgee any preferred stock, capital notes, or



debentures of such bank, terminate its status as an insured bank. Whenever the board of directors shall find that an insured bank or its directors or trustees have continued unsafe or unsound practices in conducting the business of such bank, or have knowingly or negligently permitted any of its officers or agents to violate any provision of any law or regulation to which the insured bank is subject, the board of directors shall first give to the Comptroller of the Currency in the case of a national bank or a District bank, to the authority having supervision of the bank in the case of a State bank, or to the Board of Governors of the Federal Reserve System in the case of a State member bank, a statement with respect to such practices or violations for the purpose of securing the correction thereof. Unless such correction shall be made within one hundred and twenty days or such shorter period of time as the Comptroller of the Currency, the State authority, or Board of Governors of the Federal Reserve System, as the case may be, shall require, the board of directors, if it shall determine to proceed further, shall give to the bank not less than thirty days' written notice of intention to terminate the status of the bank as an insured bank, and shall fix a time and place for a hearing before the board of directors or before a person designated by it to conduct such hearing, at which evidence may be produced, and upon such evidence the board of directors shall make written findings which shall be conclusive. Unless the bank shall appear at the hearing by a duly authorized representative, it shall be deemed to have consented to the termination of its status as an insured bank. If the board of directors shall find that any violation specified in such notice has been established, the board of directors may order that the insured status of the bank be terminated on a date subsequent to such finding and to the expiration of the time specified in such notice of intention. The Corporation may publish notice of such termination and the bank shall give notice of such termination to each of its depositors at his last address of record on the books of the bank, in such manner and at such time as the board of directors may find to be necessary and may order for the protection of depositors. After the termination of the insured status of any bank under the provisions of this paragraph, the insured deposits of each depositor in the bank on the date of such termination, less all subsequent withdrawals from any deposits of such depositor, shall continue for a period of two years to be insured, and the bank shall continue to pay to the Corporation assessments as in the case of an insured bank during such period. No additions to any such deposits and no new deposits in such bank made after the date of such termination shall be insured by the Corporation, and the bank shall not advertise or hold itself out as having insured deposits unless in the same connection it shall also state with equal prominence that such additions to deposits and new deposits made after such date are not so insured. Such bank shall, in all other respects, be subject to the duties and obligations of an insured bank for the period of two years from the date of such termination, and in the event that such bank shall be closed on account of inability to meet the demands of its depositors within such period of two years, the Corporation shall have the same powers and rights with respect to such bank as in case of an insured bank.

(2) Whenever the insured status of a State member bank shall be terminated by action of the board of directors, the Board of Governors of the Federal Reserve System shall terminate its membership in the Federal Reserve System in accordance with the provisions of section 327 of this title and whenever the insured status of a national member bank shall be so terminated the Comptroller of the Currency shall appoint a receiver for the bank, which shall be the Corporation whenever the bank shall be unable to meet the demands of its depositors. Whenever a member bank shall cease to be a member of the Fed-

eral Reserve System, its status as an insured bank shall, without notice or other action by the board of directors, terminate on the date the bank shall cease to be a member of the Federal Reserve System, with like effect as if its insured status had been terminated on said date by the board of directors after proceedings under paragraph (1) of this subsection.

(3) If any nonmember bank which becomes an insured bank under the provisions of paragraph (1) of subsection (f) of this section shall elect, within thirty days after the effective date, not to continue as an insured bank, and shall within such period give written notice to the Corporation of its election, in accordance with regulations to be prescribed by the board of directors, and to the Reconstruction Finance Corporation if it owns or holds as pledgee any preferred stock, capital notes, or debentures of such bank, it shall cease to be an insured bank and cease to be subject to the provisions of this section and the rights of the bank (including its right to any refund) shall be as provided by law existing prior to the effective date. The board of directors shall cause notice of termination of insurance to be given to the depositors of such bank by publication or otherwise as the board of directors may determine, and the deposits in such bank shall continue to be insured for twenty days beyond such thirty day period.

(4) Whenever the liabilities of an insured bank for deposits shall have been assumed by another insured bank or banks, the insured status of the bank whose liabilities are so assumed shall terminate on the date of receipt by the Corporation of satisfactory evidence of such assumption with like effect as if its insured status had been terminated on said date by the board of directors after proceedings under paragraph (1) of this subsection: *Provided*, That if the bank whose liabilities are so assumed gives to its depositors notice of such assumption within thirty days after such assumption takes effect, by publication or by any reasonable means, in accordance with regulations to be prescribed by the board of directors, the insurance of its deposits shall terminate at the end of six months from the date such assumption takes effect, and such bank shall thereupon be relieved of all future obligations to the Corporation, including the obligation to pay future assessments.

(j) **Incorporation; powers as corporation.** Upon June 16, 1933, the Corporation shall become a body corporate and as such shall have power—

First. To adopt and use a corporate seal.

Second. To have succession until dissolved by an Act of Congress.

Third. To make contracts.

Fourth. To sue and be sued, complain and defend, in any court of law or equity, State or Federal. All suits of a civil nature at common law or in equity to which the Corporation shall be a party shall be deemed to arise under the laws of the United States: *Provided*, That any such suit to which the Corporation is a party in its capacity as receiver of a State bank and which involves only the rights or obligations of depositors, creditors, stockholders and such State bank under State law shall not be deemed to arise under the laws of the United States. No attachment or execution shall be issued against the Corporation or its property before final judgment in any suit, action, or proceeding in any State, county, municipal, or United States court. The board of directors shall designate an agent upon whom service of process may be made in any State, Territory, or jurisdiction in which any insured bank is located.

Fifth. To appoint by its board of directors such officers and employees as are not otherwise provided for in this section, to define their duties, fix their compensation, require bonds of them and fix the penalty thereof, and to dismiss at pleasure such officers or employees. Nothing in this or any other Act shall be construed to prevent the appointment and compensation as an officer or employee of the Corporation of

any officer or employee of the United States in any board, commission, independent establishment, or executive department thereof.

Sixth To prescribe by its board of directors, by-laws not inconsistent with law, regulating the manner in which its general business may be conducted, and the privileges granted to it by law may be exercised and enjoyed.

Seventh. To exercise by its board of directors, or duly authorized officers or agents, all powers specifically granted by the provisions of this section and such incidental powers as shall be necessary to carry out the powers so granted.

Eighth To make examinations of and to require information and reports from banks, as provided in this section.

Ninth. To act as receiver.

Tenth To prescribe by its board of directors such rules and regulations as it may deem necessary to carry out the provisions of this section.

**(k) Powers and duties of directors; use of mails; cooperation with other governmental agencies; appointment of examiners and claim agents; powers and duties; reports of insured state banks.** (1) The board of directors shall administer the affairs of the Corporation fairly and impartially and without discrimination. The board of directors of the Corporation shall determine and prescribe the manner in which its obligations shall be incurred and its expenses allowed and paid. The Corporation shall be entitled to the free use of the United States mails in the same manner as the executive departments of the Government. The Corporation with the consent of any Federal reserve bank or of any board, commission, independent establishment, or executive department of the Government, including any field service thereof, may avail itself of the use of information, services, and facilities thereof in carrying out the provisions of this section.

(2) The board of directors shall appoint examiners who shall have power, on behalf of the Corporation, to examine any insured State nonmember bank (except a District bank), any State nonmember bank making application to become an insured bank, and any closed insured bank, whenever in the judgment of the board of directors an examination of the bank is necessary. Such examiners shall have like power to examine, with the written consent of the Comptroller of the Currency, any national bank or District bank, and, with the written consent of the Board of Governors of the Federal Reserve System, any State member bank. Each such examiner shall have power to make a thorough examination of all the affairs of the bank and in doing so he shall have power to administer oaths and to examine and take and preserve the testimony of any of the officers and agents thereof, and shall make a full and detailed report of the condition of the bank to the Corporation. The board of directors in like manner shall appoint claim agents who shall have power to investigate and examine all claims for insured deposits and transferred deposits. Each claim agent shall have power to administer oaths and to examine under oath and take and preserve the testimony of any persons relating to such claims. The provisions of sections 94 to 96 of Title 5 are hereby extended to examinations and investigations authorized by this paragraph.

(3) Each insured State nonmember bank (except a District bank) shall make to the Corporation reports of condition in such form and at such times as the board of directors may require. The board of directors may require such reports to be published in such manner, not inconsistent with any applicable law, as it may direct. Every such bank which fails to make or publish any such report within such time, not less than five days, as the board of directors may require, shall be subject to a penalty of not more than \$100 for each day of such failure recoverable by the Corporation for its use.

(4) The Corporation shall have access to reports of examinations made by, and reports of condition made to, the Comptroller of the Currency or any Federal Reserve bank, may accept any report made by or to any commission, board, or authority having supervision of a State nonmember bank (except a District bank), and may furnish to the Comptroller of the Currency, to any Federal Reserve bank, and to any such commission, board, or authority, reports of examinations made on behalf of, and reports of condition made to, the Corporation.

**(l) Permanent Insurance Fund; amount of deposit insured; Corporation as receiver, powers and duties; payment of insured deposits; subrogation; organization of new banks or transfer of business to other banks.** (1) The Temporary Federal Deposit Insurance Fund and the Fund For Mutuals heretofore created pursuant to the provisions of this section are hereby consolidated into a Permanent Insurance Fund for insuring deposits, and the assets therein shall be held by the Corporation for the uses and purposes of the Corporation: *Provided*, That the obligations to and rights of the Corporation, depositors, banks, and other persons arising out of any event or transaction prior to August 23, 1935 shall remain unimpaired. On and after August 23, 1935, the Corporation shall insure the deposits of all insured banks as provided in this section: *Provided*, That the insurance shall apply only to deposits of insured banks which have been made available since March 10, 1933, for withdrawal in the usual course of the banking business: *Provided further*, That if any insured bank shall, without the consent of the Corporation, release or modify restrictions on or deferments of deposits which had not been made available for withdrawal in the usual course of the banking business on or before August 23, 1935, such deposits shall not be insured. The maximum amount of the insured deposit of any depositor shall be \$5,000. The Corporation, in the discretion of the board of directors, may open on its books solely for the benefit of mutual savings banks and depositors therein a separate Fund For Mutuals. If such Fund is opened, all assessments upon mutual savings banks shall be paid into such Fund and the Permanent Insurance Fund of the Corporation shall cease to be liable for insurance losses sustained in mutual savings banks: *Provided*, That the capital assets of the Corporation shall be so liable and all expenses of operation of the Corporation shall be allocated between such Funds on an equitable basis.

(2) For the purposes of this section, an insured bank shall be deemed to have been closed on account of inability to meet the demands of its depositors in any case in which it has been closed for the purpose of liquidation without adequate provision being made for payment of its depositors.

(3) Notwithstanding any other provision of law, whenever any insured national bank or insured District bank shall have been closed by action of its board of directors, or by the Comptroller of the Currency, as the case may be, on account of inability to meet the demands of its depositors, the Comptroller of the Currency shall appoint the Corporation receiver for such closed bank, and no other person shall be appointed as receiver of such closed bank.

(4) It shall be the duty of the Corporation as such receiver to realize upon the assets of such closed bank, having due regard to the condition of credit in the locality; to enforce the individual liability of the stockholders and directors thereof; and to wind up the affairs of such closed bank in conformity with the provisions of law relating to the liquidation of closed national banks, except as herein otherwise provided. The Corporation shall retain for its own account such portion of the amounts realized from such liquidation as it shall be entitled to receive on account of its subrogation to the claims of depositors, and it shall pay to depositors and other creditors the net amounts

available for distribution to them. With respect to any such closed bank, the Corporation as such receiver shall have all the rights, powers, and privileges now possessed by or hereafter granted by law to a receiver of an insolvent national bank.

(5) Whenever any insured State bank (except a District bank) shall have been closed by action of its board of directors or by the authority having supervision of such bank, as the case may be, on account of inability to meet the demands of its depositors, the Corporation shall accept appointment as receiver thereof, if such appointment is tendered by the authority having supervision of such bank and is authorized or permitted by State law. With respect to any such insured State bank, the Corporation as such receiver shall possess all the rights, powers and privileges granted by State law to a receiver of a State bank.

(6) Whenever an insured bank shall have been closed on account of inability to meet the demands of its depositors, payment of the insured deposits in such bank shall be made by the Corporation as soon as possible, subject to the provisions of paragraph (7) of this subsection, either (A) by making available to each depositor a transferred deposit in a new bank in the same community or in another insured bank in an amount equal to the insured deposit of such depositor and subject to withdrawal on demand, or (B) in such other manner as the board of directors may prescribe: *Provided*, That the Corporation, in its discretion, may require proof of claims to be filed before paying the insured deposits, and that in any case where the Corporation is not satisfied as to the validity of a claim for an insured deposit, it may require the final determination of a court of competent jurisdiction before paying such claim.

(7) In the case of a closed national bank or District bank, the Corporation, upon the payment of any depositor as provided in paragraph (6) of this subsection, shall be subrogated to all rights of the depositor against the closed bank to the extent of such payment. In the case of any other closed insured bank, the Corporation shall not make any payment to any depositor until the right of the Corporation to be subrogated to the rights of such depositor on the same basis as provided in the case of a closed national bank under this section shall have been recognized either by express provision of State law, by allowance of claims by the authority having supervision of such bank, by assignment of claims by depositors, or by any other effective method. In the case of any closed insured bank, such subrogation shall include the right on the part of the Corporation to receive the same dividends from the proceeds of the assets of such closed bank and recoveries on account of stockholders' liability as would have been payable to the depositor on a claim for the insured deposit, but such depositor shall retain his claim for any uninsured portion of his deposit: *Provided*, That the rights of depositors and other creditors of any State bank shall be determined in accordance with the applicable provisions of State law.

(8) As soon as possible after the closing of an insured bank, the Corporation, if it finds that it is advisable and in the interest of the depositors of the closed bank or the public, shall organize a new national bank to assume the insured deposits of such closed bank and otherwise to perform temporarily the functions hereinafter provided for. The new bank shall have its place of business in the same community as the closed bank.

(9) The articles of association and the organization certificate of the new bank shall be executed by representatives designated by the Corporation. No capital stock need be paid in by the Corporation. The new bank shall not have a board of directors, but shall be managed by an executive officer appointed by the board of directors of the Corporation who shall be subject to its directions. In all other respects the new bank shall be organized in accordance with the then existing provisions of law relating to the organ-

ization of national banking associations. The new bank may, with the approval of the Corporation, accept new deposits which shall be subject to withdrawal on demand and which, except where the new bank is the only bank in the community, shall not exceed \$5,000 from any depositor. The new bank, without application to or approval by the Corporation, shall be an insured bank and shall maintain on deposit with the Federal Reserve bank of its district reserves in the amount required by law for member banks, but it shall not be required to subscribe for stock of the Federal Reserve bank. Funds of the new bank shall be kept on hand in cash, invested in obligations of the United States, or in obligations guaranteed as to principal and interest by the United States, or deposited with the Corporation, with a Federal Reserve bank, or, to the extent of the insurance coverage thereon, with an insured bank. The new bank, unless otherwise authorized by the Comptroller of the Currency, shall transact no business except that authorized by this section and as may be incidental to its organization. Notwithstanding any other provision of law the new bank, its franchise, property, and income shall be exempt from all taxation now or hereafter imposed by the United States, by any Territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority.

(10) Upon the organization of a new bank, the Corporation shall promptly make available to it an amount equal to the estimated insured deposits of such closed bank plus the estimated amount of the expenses of operating the new bank, and shall determine as soon as possible the amount due each depositor for his insured deposit in the closed bank, and the total expenses of operation of the new bank. Upon such determination, the amounts so estimated and made available shall be adjusted to conform to the amounts so determined. Earnings of the new bank shall be paid over or credited to the Corporation in such adjustment. If any new bank, during the period it continues its status as such, sustains any losses with respect to which it is not effectively protected except by reason of being an insured bank, the Corporation shall furnish to it additional funds in the amount of such losses. The new bank shall assume as transferred deposits the payment of the insured deposits of such closed bank to each of its [sic] depositors. Of the amounts so made available, the Corporation shall transfer to the new bank, in cash, such sums as may be necessary to enable it to meet its expenses of operation and immediate cash demands on such transferred deposits, and the remainder of such amounts shall be subject to withdrawal by the new bank on demand.

(11) Whenever in the judgment of the board of directors it is desirable to do so, the Corporation shall cause capital stock of the new bank to be offered for sale on such terms and conditions as the board of directors shall deem advisable in an amount sufficient, in the opinion of the board of directors, to make possible the conduct of the business of the new bank on a sound basis, but in no event less than that required by section 51 of this title, for the organization of a national bank in the place where such new bank is located. The stockholders of the closed insured bank shall be given the first opportunity to purchase any shares of common stock so offered. Upon proof that an adequate amount of capital stock in the new bank has been subscribed and paid for in cash, the Comptroller of the Currency shall require the articles of association and the organization certificate to be amended to conform to the requirements for the organization of a national bank, and thereafter, when the requirements of law with respect to the organization of a national bank have been complied with, he shall issue to the bank a certificate of authority to commence business, and thereupon the bank shall cease to have the status of a new bank, shall be managed by directors elected by its own shareholders and may exercise all the powers granted by law, and it

shall be subject to all the provisions of law relating to national banks. Such bank shall thereafter be an insured national bank, without certification to or approval by the Corporation.

(12) If the capital stock of the new bank is not offered for sale, or if an adequate amount of capital for such new bank is not subscribed and paid for, the board of directors may offer to transfer its business to any insured bank in the same community which will take over its assets, assume its liabilities, and pay to the Corporation for such business such amount as the board of directors may deem adequate; or the board of directors in its discretion may change the location of the new bank to the office of the Corporation or to some other place or may at any time wind up its affairs as herein provided. Unless the capital stock of the new bank is sold or its assets are taken over and its liabilities are assumed by an insured bank as above provided within two years from the date of its organization, the Corporation shall wind up the affairs of such bank, after giving such notice, if any, as the Comptroller of the Currency may require, and shall certify to the Comptroller of the Currency the termination of the new bank. Thereafter the Corporation shall be liable for the obligations of such bank and shall be the owner of its assets. The provisions of sections 181 and 182 of Title 12 shall not apply to such new banks.

(m) **Bond as receiver; payment of insured deposit as discharge from liability; recognition of claimant not on bank records; withholding payment to meet liability to bank; unclaimed deposits.** (1) The Corporation as receiver of a closed national bank or District bank shall not be required to furnish bond and shall have the right to appoint an agent or agents to assist it in its duties as such receiver, and all fees, compensation, and expenses of liquidation and administration thereof shall be fixed by the Corporation, subject to the approval of the Comptroller of the Currency, and may be paid by it out of funds coming into its possession as such receiver. The Comptroller of the Currency is authorized and empowered to waive and relieve the Corporation from complying with any regulations of the Comptroller of the Currency with respect to receiverships where in his discretion such action is deemed advisable to simplify administration.

(2) Payment of an insured deposit to any person by the Corporation shall discharge the Corporation, and payment of a transferred deposit to any person by the new bank or by an insured bank in which a transferred deposit has been made available shall discharge the Corporation and such new bank or other insured bank, to the same extent that payment to such person by the closed bank would have discharged it from liability for the insured deposit.

(3) Except as otherwise prescribed by the board of directors, neither the Corporation nor such new bank or other insured bank shall be required to recognize as the owner of any portion of a deposit appearing on the records of the closed bank under a name other than that of the claimant, any person whose name or interest as such owner is not disclosed on the records of such closed bank as part owner of said deposit, if such recognition would increase the aggregate amount of the insured deposits in such closed bank.

(4) The Corporation may withhold payment of such portion of the insured deposit of any depositor in a closed bank as may be required to provide for the payment of any liability of such depositor as a stockholder of the closed bank, or of any liability of such depositor to the closed bank or its receiver, which is not offset against a claim due from such bank, pending the determination and payment of such liability by such depositor or any other person liable therefor.

(5) If, after the Corporation shall have given at least three months' notice to the depositor by mailing a copy thereof to his last known address appearing on the records of the closed bank, any depositor in the closed bank shall fail to claim his insured deposit from the Corporation within eighteen months after

the appointment of the receiver for the closed bank, or shall fail within such period to claim or arrange to continue the transferred deposit with the new bank or with the other insured bank which assumes liability therefor, all rights of the depositor against the Corporation with respect to the insured deposit, and against the new bank and such other insured bank with respect to the transferred deposit shall be barred, and all rights of the depositor against the closed bank and its shareholders, or the receivership estate to which the Corporation may have become subrogated, shall thereupon revert to the depositor. The amount of any transferred deposits not claimed within such eighteen months' period, shall be refunded to the Corporation.

(n) **Investment of moneys of Corporation; status as depositary and financial agent; loans to closed banks; sale of assets to Corporation; loans on assets as security.** (1) Money of the Corporation not otherwise employed shall be invested in obligations of the United States or in obligations guaranteed as to principal and interest by the United States, except that for temporary periods, in the discretion of the board of directors, funds of the Corporation may be deposited in any Federal Reserve bank or with the Treasurer of the United States. When designated for that purpose by the Secretary of the Treasury, the Corporation shall be a depositary of public moneys, except receipts from customs, under such regulations as may be prescribed by the said Secretary, and may also be employed as a financial agent of the Government. It shall perform all such reasonable duties as depositary of public moneys and financial agent of the Government as may be required of it.

(2) Nothing contained in this section shall be construed to prevent the Corporation from making loans to national banks closed by action of the Comptroller of the Currency, or by vote of their directors, or to State member banks closed by action of the appropriate State authorities, or by vote of their directors, or from entering into negotiations to secure the reopening of such banks.

(3) Receivers or liquidators of insured banks closed on account of inability to meet the demands of their depositors shall be entitled to offer the assets of such banks for sale to the Corporation or as security for loans from the Corporation, upon receiving permission from the appropriate State authority in accordance with express provisions of State law in the case of insured State banks, or from the Comptroller of the Currency in the case of national banks or District banks. The proceeds of every such sale or loan shall be utilized for the same purposes and in the same manner as other funds realized from the liquidation of the assets of such banks. The Comptroller of the Currency may, in his discretion, pay dividends on proved claims at any time after the expiration of the period of advertisement made pursuant to section 193 of Title 12, and no liability shall attach to the Comptroller of the Currency or to the receiver of any national bank by reason of any such payment for failure to pay dividends to a claimant whose claim is not proved at the time of any such payment. The Corporation, in its discretion, may make loans on the security of or may purchase and liquidate or sell any part of the assets of an insured bank which is now or may hereafter be closed on account of inability to meet the demands of its depositors, but in any case in which the Corporation is acting as receiver of a closed insured bank, no such loan or purchase shall be made without the approval of a court of competent jurisdiction.

(4) Until July 1, 1936, whenever in the judgment of the board of directors such action will reduce the risk or avert a threatened loss to the Corporation and will facilitate a merger or consolidation of an insured bank with another insured bank, or will facilitate the sale of the assets of an open or closed insured bank to and assumption of its liabilities by another insured bank, the Corporation may, upon such terms and conditions as it may determine, make

loans secured in whole or in part by assets of an open or closed insured bank, which loans may be in subordination to the rights of depositors and other creditors, or the Corporation may purchase any such assets or may guarantee any other insured bank against loss by reason of its assuming the liabilities and purchasing the assets of an open or closed insured bank. Any insured national bank or District bank, or, with the approval of the Comptroller of the Currency, any receiver thereof, is authorized to contract for such sales or loans and to pledge any assets of the bank to secure such loans.

(c) **Notes, debentures, bonds and other obligations; issuance by Corporation; purchases and sales of obligations by Secretary of Agriculture.** (1) The Corporation is authorized and empowered to issue and to have outstanding its notes, debentures, bonds, or other such obligations, in a par amount aggregating not more than three times the amount received by the Corporation in payment of its capital stock and in payment of the assessments upon insured banks for the year 1936. The notes, debentures, bonds, and other such obligations issued under this subsection shall be redeemable at the option of the Corporation before maturity in such manner as may be stipulated in such obligations, and shall bear such rate or rates of interest, and shall mature at such time or times, as may be determined by the Corporation: *Provided*, That the Corporation may sell on a discount basis short-term obligations payable at maturity without interest. The notes, debentures, bonds, and other such obligations of the Corporation may be secured by assets of the Corporation in such manner as shall be prescribed by its board of directors. Such obligations may be offered for sale at such price or prices as the Corporation may determine.

(2) The Secretary of the Treasury, in his discretion, is authorized to purchase any obligations of the Corporation to be issued hereunder, and for such purpose the Secretary of the Treasury is authorized to use as a public-debt transaction the proceeds of the sale of any securities hereafter issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under the Second Liberty Bond Act, as amended, are extended to include such purchases: *Provided*, That if the Reconstruction Finance Corporation fails for any reason to purchase any of the obligations of the Corporation as provided in subsection (b) of section 5e of the Reconstruction Finance Corporation Act, as amended, the Secretary of the Treasury is authorized and directed to purchase such obligations in an amount equal to the amount of such obligations the Reconstruction Finance Corporation so fails to purchase: *Provided further*, That the Secretary of the Treasury is authorized and directed, whenever in the judgment of the board of directors of the Corporation additional funds are required for insurance purposes, to purchase obligations of the Corporation in an additional amount of not to exceed \$250,000,000 par value: *Provided further*, That the proceeds derived from the purchase by the Secretary of the Treasury of any such obligations shall be used by the Corporation solely in carrying out its functions with respect to such insurance. The Secretary of the Treasury may, at any time, sell any of the obligations of the Corporation acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of the obligations of the Corporation shall be treated as public-debt transactions of the United States.

(p) **Exemption from taxation of obligations issued by Corporation.** All notes, debentures, bonds, or other such obligations issued by the Corporation shall be exempt, both as to principal and interest, from all taxation (except estate and inheritance taxes) now or hereafter imposed by the United States, by any Territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority. The Corporation, including its franchise, its capital, reserves, and surplus, and its income, shall

be exempt from all taxation now or hereafter imposed by the United States, by any Territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority, except that any real property of the Corporation shall be subject to State, Territorial, county, municipal, or local taxation to the same extent according to its value as the other real property is taxed.

(q) **Forms of obligations; preparation by Secretary of Treasury.** In order that the Corporation may be supplied with such forms of notes, debentures, bonds, or other such obligations as it may need for issuance under this section, the Secretary of the Treasury is authorized to prepare such forms as shall be suitable and approved by the Corporation, to be held in the Treasury subject to delivery, upon order of the Corporation. The engraved plate, dies, bed pieces, and other material executed in connection therewith shall remain in the custody of the Secretary of the Treasury. The Corporation shall reimburse the Secretary of the Treasury for any expenses incurred in the preparation, custody, and delivery of such notes, debentures, bonds, or other such obligations.

(r) **Reports of corporation.** The Corporation shall annually make a report of its operations to the Congress as soon as practicable after the 1st day of January in each year.

(s) **False statements regarding loans; penalties.** Whoever, for the purpose of obtaining any loan from the Corporation, or any extension or renewal thereof, or the acceptance, release, or substitution of security therefor, or for the purpose of inducing the Corporation to purchase any assets, or for the purpose of obtaining the payment of any insured deposit or transferred deposit or the allowance, approval, or payment of any claim, or for the purpose of influencing in any way the action of the Corporation under this section, makes any statement, knowing it to be false, or willfully overvalues any security, shall be punished by a fine of not more than \$5,000, or by imprisonment for not more than two years or both.

(t) **Counterfeiting or forging obligations of corporation; penalties.** Whoever (1) falsely makes, forges, or counterfeits any obligation or coupon, in imitation of or purporting to be an obligation or coupon issued by the Corporation, or (2) passes, utters, or publishes, or attempts to pass, utter, or publish, any false, forged, or counterfeited obligation or coupon purporting to have been issued by the Corporation, knowing the same to be false, forged, or counterfeited, or (3) falsely alters any obligation or coupon issued or purporting to have been issued by the Corporation, or (4) passes, utters, or publishes, or attempts to pass, utter, or publish, as true, any falsely altered or spurious obligation or coupon, issued or purporting to have been issued by the Corporation, knowing the same to be falsely altered or spurious, shall be punished by a fine of not more than \$10,000, or by imprisonment for not more than five years, or both.

(u) **Embezzlement; false book entries; unauthorized assignments; penalties.** Whoever, being connected in any capacity with the Corporation, (1) embezzles, abstracts, purloins, or willfully misapplies any moneys, funds, securities, or other things of value, whether belonging to it or pledged, or otherwise entrusted to it, or (2) with intent to defraud the Corporation or any other body, politic or corporate, or any individual, or to deceive any officer, auditor, or examiner of the Corporation, makes any false entry in any book, report, or statement of or to the Corporation, or without being duly authorized draws any order or issues, puts forth, or assigns any note, debenture, bond, or other such obligation, or draft, bill of exchange, mortgage, judgment, or decree thereof, shall be punished by a fine of not more than \$10,000, or by imprisonment for not more than five years, or both.

(v) **Use of words "Federal Deposit Insurance Corporation" forbidden; signs; payment of dividends by**



**defaulting bank; mergers with noninsured bank; branch banks; indemnity insurance; publication of reports; interest of deposits.** (1) No individual, association, partnership, or corporation shall use the words "Federal Deposit Insurance Corporation", or a combination of any three of these four words, as the name or a part thereof under which he or it shall do business. No individual, association, partnership, or corporation shall advertise or otherwise represent falsely by any device whatsoever that his or its deposit liabilities are insured or in anywise guaranteed by the Federal Deposit Insurance Corporation or by the United States or any instrumentality thereof; and no insured bank shall advertise or otherwise represent falsely by any device whatsoever the extent to which or the manner in which its deposit liabilities are insured by the Federal Deposit Insurance Corporation. Every individual, partnership, association, or corporation violating this subsection shall be punished by a fine of not exceeding \$1,000, or by imprisonment not exceeding one year, or both.

(2) Every insured bank shall display at each place of business maintained by it a sign or signs, and shall include in advertisements relating to deposits a statement to the effect that its deposits are insured by the Corporation. The board of directors shall prescribe by regulation the forms of such signs and the manner of display and the substance of such statements and the manner of use. For each day an insured bank continues to violate any provision of this paragraph or any lawful provision of said regulations, it shall be subject to a penalty of not more than \$100, recoverable by the Corporation for its use.

(3) No insured bank shall pay any dividends on its capital stock or interest on its capital notes or debentures (of [sic] such interest is required to be paid only out of net profits) while it remains in default in the payment of any assessment due to the Corporation; and any director or officer of any insured bank who participates in the declaration or payment of any such dividend shall, upon conviction, be fined not more than \$1,000, or imprisoned not more than one year, or both: *Provided*, That if such default is due to a dispute between the insured bank and the Corporation over the amount of such assessment, this paragraph shall not apply, if such bank shall deposit security satisfactory to the Corporation for payment upon final determination of the issue.

(4) Unless, in addition to compliance with other provisions of law, it shall have the prior written consent of the Corporation, no insured bank shall enter into any consolidation or merger with any noninsured bank, or assume liability to pay any deposits made in any noninsured bank, or transfer assets to any noninsured bank in consideration of the assumption of liability for any portion of the deposits made in such insured bank, and no insured State nonmember bank (except a District bank) without such consent shall reduce the amount or retire any part of its common or preferred capital stock, or retire any part of its capital notes or debentures.

(5) No State nonmember insured bank (except a District bank) shall establish and operate any new branch after thirty days after August 23, 1935 unless it shall have the prior written consent of the Corporation, and no branch of any State nonmember insured bank shall be moved from one location to another after thirty days after August 23, 1935 without such consent. The factors to be considered in granting or withholding the consent of the Corporation under this paragraph shall be those enumerated in subsection (g) of this section.

(6) The Corporation may require any insured bank to provide protection and indemnity against burglary, defalcation, and other similar insurable losses. Whenever any insured bank refuses to comply with any such requirement the Corporation may contract for such protection and indemnity and add the cost thereof to the assessment otherwise payable by such bank.

(7) Whenever any insured bank (except a national bank or a District bank), after written notice of the recommendations of the Corporation based on a report of examination of such bank by an examiner of the Corporation, shall fail to comply with such recommendations within one hundred and twenty days after such notice, the Corporation shall have the power, and is hereby authorized, to publish only such part of such report of examination as relates to any recommendation not complied with: *Provided*, That notice of intention to make such publication shall be given to the bank at least ninety days before such publication is made.

(8) The board of directors shall by regulation prohibit the payment of interest on demand deposits in insured nonmember banks and for such purpose it may define the term "demand deposits"; but such exceptions from this prohibition shall be made as are now or may hereafter be prescribed with respect to deposits payable on demand in member banks by section 371b of this title, as amended, or by regulation of the Board of Governors of the Federal Reserve System. The board of directors shall from time to time limit by regulation the rates of interest or dividends which may be paid by insured nonmember banks on time and savings deposits, but such regulations shall be consistent with the contractual obligations of such banks to their depositors. For the purpose of fixing such rates of interest or dividends, the board of directors shall by regulation prescribe different rates for such payment on time and savings deposits having different maturities, or subject to different conditions respecting withdrawal or repayment, or subject to different conditions by reason of different locations, or according to the varying discount rates of member banks in the several Federal Reserve districts. The board of directors shall by regulation define what constitutes time and savings deposits in an insured nonmember bank. Such regulations shall prohibit any insured nonmember bank from paying any time deposit before its maturity except upon such conditions and in accordance with such rules and regulations as may be prescribed by the board of directors, and from waiving any requirement of notice before payment of any savings deposit except as to all savings deposits having the same requirement. For each violation of any provision of this paragraph or any lawful provision of such regulations relating to the payment of interest or dividends on deposits or to withdrawal of deposits, the offending bank shall be subject to a penalty or [sic] not more than \$100, recoverable by the Corporation for its use.

(w) **Application of Criminal Code.** The provisions of sections 202 to 207 inclusive, of Title 18, insofar as applicable, are extended to apply to contracts or agreements with the Corporation under this section, which for the purposes hereof shall be held to include loans, advances, extensions, and renewals thereof, and acceptances, releases, and substitutions of security therefor, purchases or sales of assets, and all contracts and agreements pertaining to the same.

(x) **Arrests; Secret Service Division of Treasury Department authorized to make.** The Secret Service Division of the Treasury Department is authorized to detect, arrest, and deliver into the custody of the United States marshal having jurisdiction any person committing any of the offenses punishable under this section.

(y) **State banks with deposits of million required to become members of Reserve System; discrimination against nonmember banks.** (1) No State bank which during the calendar year 1941 or any succeeding calendar year shall have average deposits of \$1,000,000 or more shall be an insured bank or continue to have any part of its deposits insured after July 1 of the year following any such calendar year during which it shall have had such amount of average deposits, unless such bank shall be a member of the Federal Reserve System: *Provided*, That for the pur-

poses of this paragraph the term "State bank" shall not include a savings bank, a mutual savings bank, a Morris Plan bank or other incorporated banking institution engaged only in a business similar to that transacted by Morris Plan banks, a State trust company doing no commercial banking business, or a bank located in Hawaii, Alaska, Puerto Rico, or the Virgin Islands.

(2) It is not the purpose of this section to discriminate, in any manner, against State nonmember, and in favor of, national or member banks; but the purpose is to provide all banks with the same opportunity to obtain and enjoy the benefits of this section. No bank shall be discriminated against because its capital stock is less than the amount required for eligibility for admission into the Federal Reserve System.

(z) **Provisions limiting insurance of a depositor as separable from other provisions of section.** The provisions of this section limiting the insurance of the deposits of any depositor to a maximum less than the full amount shall be independent and separable from each and all of the provisions of this section. (As amended June 28, 1935, c. 335, 49 Stat.; Aug. 23, 1935, c. 614, § 101, 49 Stat. 684.)

#### CAPITAL AND STOCK OF FEDERAL RESERVE BANKS; DIVIDENDS AND EARNINGS

§ 287. Value of shares of stock; increase and decrease of stock; member banks as shareholders; surrender of shares.

When a member bank reduces its capital stock or surplus it shall surrender a proportionate amount of its holdings in the capital stock of said Federal Reserve bank. Any member bank which holds capital stock of a Federal Reserve bank in excess of the amount required on the basis of 6 per centum of its paid-up capital stock and surplus shall surrender such excess stock. When a member bank voluntarily liquidates it shall surrender all of its holdings of the capital stock of said Federal Reserve bank and be released from its stock subscription not previously called. In any such case the shares surrendered shall be canceled and the member bank shall receive in payment therefor, under regulations to be prescribed by the Board of Governors of the Federal Reserve System, a sum equal to its cash-paid subscriptions on the shares surrendered and one-half of 1 per centum a month from the period of the last dividend not to exceed the book value thereof, less any liability of such member bank to the Federal Reserve bank. (As amended Aug. 23, 1935, c. 614, § 319 (a), 49 Stat. 713.)

Act Aug. 23, 1935, c. 614, amended section by striking out the last three sentences thereof and inserting in lieu thereof the above.

§ 288. Cancellation of stock held by member bank on insolvency or discontinuance of banking operations for sixty days; repayment of cash-paid subscriptions; certificate of reduction of capital stock of reserve bank.

Act Aug. 23, 1935, c. 614, § 319 (b), 49 Stat. 713, amended this section by striking out the last paragraph thereof.

#### STATE BANKS AS MEMBERS OF SYSTEM

§ 321. Application for membership.

*Provided, however,* That nothing herein contained shall prevent any State member bank from establishing and operating branches in the United States or any dependency or insular possession thereof or in any foreign country, on the same terms and conditions and subject to the same limitations and restrictions as are applicable to the establishment of branches by national banks except that the approval of the Board of Governors of the Federal Reserve System, instead of the Comptroller of the Currency, shall be obtained before any State member bank may

hereafter establish any branch and before any State bank hereafter admitted to membership may retain any branch established after February 25, 1927, beyond the limits of the city, town, or village in which the parent bank is situated. (As amended Aug. 23, 1935, c. 614, § 338, 49 Stat. 721.)

§ 324. Laws applicable on becoming members.

Such reports of condition shall be in such form and shall contain such information as the Board of Governors of the Federal Reserve System may require and shall be published by the reporting banks in such manner and in accordance with such regulations as the said Board may prescribe. (As amended Aug. 23, 1935, c. 614, § 320, 49 Stat. 713.)

Act Aug. 23, 1935, c. 614, added above sentence to end of section.

§ 329a. Waiver of requirements for membership.

In order to facilitate the admission to membership in the Federal Reserve System of any State bank which is required under subsection (y) of section 264 of this title to become a member of the Federal Reserve System in order to be an insured bank or continue to have any part of its deposits insured under such section 264, the Board of Governors of the Federal Reserve System may waive in whole or in part the requirements of this section relating to the admission of such bank to membership: *Provided*, That, if such bank is admitted with a capital less than that required for the organization of a national bank in the same place and its capital and surplus are not, in the judgment of the Board of Governors of the Federal Reserve System, adequate in relation to its liabilities to depositors and other creditors, the said Board may, in its discretion, require such bank to increase its capital and surplus to such amount as the Board may deem necessary within such period prescribed by the Board as in its judgment shall be reasonable in view of all the circumstances: *Provided, however*, That no such bank shall be required to increase its capital to an amount in excess of that required for the organization of a national bank in the same place. (Dec. 23 1913, c. 6, § 9, as added Aug. 23, 1935, c. 614, § 202, 49 Stat. 704.)

§ 334. Reports from affiliates; penalty for failure to furnish.

"40 Stat. 259" in citation should be "38 Stat. 259."

§ 336. Certificates of stock; representation of stock of other corporations. After August 23, 1935, no certificate evidencing the stock of any State member bank shall bear any statement purporting to represent the stock of any other corporation, except a member bank or a corporation engaged on June 16, 1934 in holding the bank premises of such member bank, nor shall the ownership, sale, or transfer of any certificate representing the stock of any State member bank be conditioned in any manner whatsoever upon the ownership, sale, or transfer of a certificate representing the stock of any other corporation, except a member bank or a corporation engaged on June 16, 1934 in holding the bank premises of such member bank: *Provided*, That this section shall not operate to prevent the ownership, sale, or transfer of stock of any other corporation being conditioned upon the ownership, sale, or transfer of a certificate representing stock of a State member bank. (As amended Aug. 23, 1935, c. 614, § 310 (b), 49 Stat. 710.)

#### POWERS AND DUTIES OF FEDERAL RESERVE BANKS

§ 341. General enumeration of powers.

Fifth. To appoint by its board of directors a president, vice presidents, and such officers and employees as are not otherwise provided for in this chapter, to define their duties, require bonds for them and fix the penalty thereof, and to dismiss at pleasure such

officers or employees. The president shall be the chief executive officer of the bank and shall be appointed by the board of directors, with the approval of the Board of Governors of the Federal Reserve System, for a term of five years; and all other executive officers and all employees of the bank shall be directly responsible to him. The first vice president of the bank shall be appointed in the same manner and for the same term as the president, and shall, in the absence or disability of the president or during a vacancy in the office of president, serve as chief executive officer of the bank. Whenever a vacancy shall occur in the office of the president or the first vice president, it shall be filled in the manner provided for original appointments; and the person so appointed shall hold office until the expiration of the term of his predecessor. (As amended Aug. 23, 1935, c. 614, § 201, 49 Stat. 703.)

The amendment of paragraph "Fifth" by Act Aug. 23, 1935, c. 614, § 201, cited to the text, becomes effective on March 1, 1936.

**§ 343. Discount of obligations arising out of actual commercial transactions.**

\* \* \* \* \*

In unusual and exigent circumstances, the Federal Reserve Board, by the affirmative vote of not less than five members, may authorize any Federal reserve bank, during such periods as the said board may determine, at rates established in accordance with the provisions of section 357 of this title, to discount for any individual, partnership, or corporation, notes, drafts, and bills of exchange of the kinds and maturities made eligible for discount for member banks under other provisions of this chapter when such notes, drafts, and bills of exchange are indorsed or otherwise secured to the satisfaction of the Federal reserve bank: *Provided*, That before discounting any such note, draft, or bill of exchange for an individual or a partnership or corporation the Federal reserve bank shall obtain evidence that such individual, partnership, or corporation is unable to secure adequate credit accommodations from other banking institutions. All such discounts for individuals, partnerships, or corporations shall be subject to such limitations, restrictions, and regulations as the Federal Reserve Board may prescribe. (As amended Aug. 23, 1935, c. 614, § 322, 49 Stat. 714.)

**§ 347b. Advances to individual member banks on time or demand notes; maturities; interest.** Any Federal Reserve bank, under rules and regulations prescribed by the Board of Governors of the Federal Reserve System, may make advances to any member bank on its time or demand notes having maturities of not more than four months and which are secured to the satisfaction of such Federal Reserve bank. Each such note shall bear interest at a rate not less than one-half of 1 per centum per annum higher than the highest discount rate in effect at such Federal Reserve bank on the date of such note. (As amended Aug. 23, 1935, c. 614, § 204, 49 Stat. 705.)

**§ 352a. Loans for industrial purposes.**

\* \* \* \* \*

**(e) Advances to Federal Reserve banks; Federal Deposit Insurance Corporation stock as security.** In order to enable the Federal Reserve banks to make the loans, discounts, advances, purchases, and commitments provided for in this section, the Secretary of the Treasury, on and after June 19, 1934, is authorized, under such rules and regulations as he shall prescribe, to pay to each Federal Reserve bank not to exceed such portion of the sum of \$139,299,557 as may be represented by the amount paid by each Federal Reserve bank for stock of the Federal Deposit Insurance Corporation, upon the execution by each Federal Reserve bank of its agreement (to be endorsed on the certificate of such stock) to hold such stock unencumbered and to pay to the United States all dividends, all payments on liquidation, and all other proceeds of such stock, for which dividends,

payments, and proceeds the United States shall be secured by such stock itself up to the total amount paid to each Federal Reserve bank by the Secretary of the Treasury under this section. \* \* \* (As amended Aug. 23, 1935, c. 614, § 323, 49 Stat. 714.)

**§ 355. Purchase and sale of obligations of National, State, and municipal Governments.** Every Federal reserve bank shall have power to buy and sell, at home or abroad, bonds and notes of the United States, bonds of the Federal Farm Mortgage Corporation having maturities from date of purchase of not exceeding six months, bonds issued under the provisions of subsection (c) of section 1463 of this title and having maturities from date of purchase of not exceeding six months, and bills, notes, revenue bonds, and warrants with a maturity from date of purchase of not exceeding six months, issued in anticipation of the collection of taxes or in anticipation of the receipt of assured revenues by any State, county, district, political subdivision, or municipality in the continental United States, including irrigation, drainage and reclamation districts, such purchases to be made in accordance with rules and regulations prescribed by the Federal Reserve Board. *Provided*, That any bonds, notes, or other obligations which are direct obligations of the United States or which are fully guaranteed by the United States as to principal and interest may be bought and sold without regard to maturities but only in the open market. (As amended Aug. 23, 1935, c. 614, § 206 (a), 49 Stat. 706.)

**§ 357. Establishment of rates of discount.** \* \* \* but each such bank shall establish such rates every fourteen days, or oftener if deemed necessary by the Board. (As amended Aug. 23, 1935, c. 614, § 206 (b), 49 Stat. 706.)

Amendment of Aug. 23, 1935, added above matter to end of section.

**POWERS AND DUTIES OF MEMBER BANKS**

**§ 371. Loans on farm lands and improved real estate; time and savings deposits.** Any national banking association may make real-estate loans secured by first liens upon improved real estate, including improved farm land and improved business and residential properties. A loan secured by real estate within the meaning of this section shall be in the form of an obligation or obligations secured by mortgage, trust deed, or other such instrument upon real estate, and any national banking association may purchase any obligation so secured when the entire amount of such obligation is sold to the association. The amount of any such loan hereafter made shall not exceed 50 per centum of the appraised value of the real estate offered as security and no such loan shall be made for a longer term than five years; except that (1) any such loan may be made in an amount not to exceed 60 per centum of the appraised value of the real estate offered as security and for a term not longer than ten years if the loan is secured by an amortized mortgage, deed of trust, or other such instrument under the terms of which the installment payments are sufficient to amortize 40 per centum or more of the principal of the loan within a period of not more than ten years, and (2) the foregoing limitations and restrictions shall not prevent the renewal or extension of loans heretofore made and shall not apply to real-estate loans which are insured under the provisions of sections 1707 to 1715 of this title. No such association shall make such loans in an aggregate sum in excess of the amount of the capital stock of such association paid in and unimpaired plus the amount of its unimpaired surplus fund, or in excess of 60 per centum of the amount of its time and savings deposits, whichever is the greater. Any such association may continue hereafter as heretofore to receive time and savings deposits and to pay interest on the same, but the rate of interest which such association may pay upon such time deposits or upon savings or other deposits shall



not exceed the maximum rate authorized by law to be paid upon such deposits by State banks or trust companies organized under the laws of the State in which such association is located.

Any such bank may make such loans in an aggregate sum including in such aggregate any such loans on which it is liable as indorser or guarantor or otherwise equal to 25 per centum of the amount of the capital stock of such association actually paid in and unimpaired and 25 per centum of its unimpaired surplus fund, or to one-half of its savings deposits, at the election of the association, subject to the general limitation contained in section 84 of this title. Such banks may continue hereafter as heretofore to receive time and savings deposits and to pay interest on the same, but the rate of interest which such banks may pay upon such time deposits or upon savings or other deposits shall not exceed the maximum rate authorized by law to be paid upon such deposits by State banks or trust companies organized under the laws of the State wherein such national banking association is located.

Loans made to finance the construction of residential or farm buildings and having maturities of not to exceed six months, whether or not secured by a mortgage or similar lien on the real estate upon which the residential or farm building is being constructed, shall not be considered as loans secured by real estate within the meaning of this section but shall be classed as ordinary commercial loans: *Provided*, That no national banking association shall invest in, or be liable on, any such loans in an aggregate amount in excess of 50 per centum of its actually paid-in and unimpaired capital. Notes representing such loans shall be eligible for discount as commercial paper within the terms of section 343 of this title, if accompanied by a valid and binding agreement to advance the full amount of the loan upon the completion of the building entered into by an individual, partnership, association, or corporation acceptable to the discounting bank.

Loans made to established industrial or commercial businesses (a) which are in whole or in part discounted or purchased or loaned against as security by a Federal Reserve bank under the provisions of section 352a of this title, (b) for any part of which a commitment shall have been made by a Federal Reserve bank under the provisions of said section, (c) in the making of which a Federal Reserve bank participates under the provisions of said section, or (d) in which the Reconstruction Finance Corporation cooperates or purchases a participation under the provisions of section 606g of Title 15, shall not be subject to the restrictions or limitations of this section upon loans secured by real estate. (As amended Aug. 23, 1935, c. 614, §§ 208, 328, 49 Stat. 706.)

Act Aug. 23, c. 614, § 208, 49 Stat. 706, affected first paragraph and § 328 of same act added new paragraph at end of section.

**§ 371a. Payment of interest on demand deposits.** No member bank shall, directly or indirectly, by any device whatsoever, pay any interest on any deposit which is payable on demand: *Provided*, That nothing herein contained shall be construed as prohibiting the payment of interest in accordance with the terms of any certificate of deposit or other contract entered into in good faith which is in force on the date on which the bank becomes subject to the provisions of this paragraph; but no such certificate of deposit or other contract shall be renewed or extended unless it shall be modified to conform to this paragraph, and every member bank shall take such action as may be necessary to conform to this paragraph as soon as possible consistently with its contractual obligations: *Provided further*, That this paragraph shall not apply to any deposit of such bank which is payable only at an office thereof located outside of the States of the United States and the District of Columbia: *Provided further*, That until the expiration of two years after August 23, 1935 this paragraph shall not apply (1) to any deposit made by a savings bank as

defined in section 264 of this title, or by a mutual savings bank, or (2) to any deposit of public funds made by or on behalf of any State, county, school district, or other subdivision or municipality, or to any deposit of trust funds if the payment of interest with respect to such deposit of public funds or of trust funds is required by State law. So much of existing law as requires the payment of interest with respect to any funds deposited by the United States, by any Territory, District, or possession thereof (including the Philippine Islands), or by any public instrumentality, agency, or officer of the foregoing, as is inconsistent with the provisions of this section is hereby repealed. (As amended Aug. 23, 1935, c. 614, § 324(c), 49 Stat. 714.)

**§ 371b. Rate of interest on time deposits; payment of time deposits before maturity; waiver of notice requirements for withdrawal of savings deposits.** The Board of Governors of the Federal Reserve System shall from time to time limit by regulation the rate of interest which may be paid by member banks on time and savings deposits, and shall prescribe different rates for such payment on time and savings deposits having different maturities, or subject to different conditions respecting withdrawal or repayment, or subject to different conditions by reason of different locations, or according to the varying discount rates of member banks in the several Federal Reserve districts. No member bank shall pay any time deposit before its maturity except upon such conditions and in accordance with such rules and regulations as may be prescribed by the said Board, or waive any requirement of notice before payment of any savings deposit except as to all savings deposits having the same requirement: *Provided*, That the provisions of this section shall not apply to any deposit which is payable only at an office of a member bank located outside of the States of the United States and the District of Columbia. (As amended Aug. 23, 1935, c. 614, § 324(c), 49 Stat. 714.)

**§ 371c. Loans to or purchase of securities of affiliates; collateral acceptable.**

\* \* \* \* \*

For the purpose of this section, the term "affiliate" shall include holding-company affiliates as well as other affiliates, and the provisions of this section shall not apply to any affiliate (1) engaged on June 16, 1934, in holding the bank premises of the member bank with which it is affiliated or in maintaining and operating properties acquired for banking purposes prior to such date; (2) engaged solely in conducting a safe-deposit business or the business of an agricultural credit corporation or livestock loan company; (3) in the capital stock of which a national banking association is authorized to invest pursuant to section 615 of this title, or a subsidiary of such affiliate, all the stock of which (except qualifying shares of directors in an amount not to exceed 10 per centum) is owned by such affiliate; (4) organized under section 614 of this title, or a subsidiary of such affiliate, all the stock of which (except qualifying shares of directors in an amount not to exceed 10 per centum) is owned by such affiliate; (5) engaged solely in holding obligations of the United States or obligations fully guaranteed by the United States as to principal and interest, the Federal intermediate credit banks, the Federal land banks, the Federal Home Loan Banks, or the Home Owners' Loan Corporation; (6) where the affiliate relationship has arisen out of a bona fide debt contracted prior to the date of the creation of such relationship; or (7) where the affiliate relationship exists by reason of the ownership or control of any voting shares thereof by a member bank as executor, administrator, trustee, receiver, agent, depository, or in any other fiduciary capacity, except where such shares are held for the benefit of all or a majority of the stockholders of such member bank; but as to any such affiliate, member banks shall continue to be subject to other provisions of law appli-

cable to loans by such banks and investments by such banks in stocks, bonds, debentures, or other such obligations. The provisions of this section shall likewise not apply to indebtedness of any affiliate for unpaid balances due a bank on assets purchased from such bank or to loans secured by, or extensions of credit against, obligations of the United States or obligations fully guaranteed by the United States as to principal and interest. (As amended Aug. 23, 1935, c. 614, § 327, 49 Stat. 717.)

**§ 375a. Loans to executive officers of bank prohibited; penalties.** No executive officer of any member bank shall borrow from or otherwise become indebted to any member bank of which he is an executive officer, and no member bank shall make any loan or extend credit in any other manner to any of its own executive officers: *Provided*, That loans made to any such officer prior to June 16, 1933, may be renewed or extended for periods expiring not more than five years from such date where the board of directors of the member bank shall have satisfied themselves that such extension or renewal is in the best interest of the bank and that the officer indebted has made reasonable effort to reduce his obligation, these findings to be evidenced by resolution of the board of directors spread upon the minute book of the bank: *Provided further*, That with the prior approval of a majority of the entire board of directors, any member bank may extend credit to any executive officer thereof, and such officer may become indebted thereto, in an amount not exceeding \$2,500. If any executive officer of any member bank borrow from or if he be or become indebted to any bank other than a member bank of which he is an executive officer, he shall make a written report to the board of directors of the member bank of which he is an executive officer, stating the date and amount of such loan or indebtedness, the security therefor, and the purpose for which the proceeds have been or are to be used. Borrowing by, or loaning to, a partnership in which one or more executive officers of a member bank are partners having either individually or together a majority interest in said partnership, shall be considered within the prohibition of this section. Nothing contained in this section shall prohibit any executive officer of a member bank from endorsing or guaranteeing for the protection of such bank any loan or other asset which shall have been previously acquired by such bank in good faith or from incurring any indebtedness to such bank for the purpose of protecting such bank against loss or giving financial assistance to it. The Board of Governors of the Federal Reserve System is authorized to define the term "executive officer", to determine what shall be deemed to be a borrowing, indebtedness, loan, or extension of credit, for the purposes of this section, and to prescribe such rules and regulations as it may deem necessary to effectuate the provisions of this subsection in accordance with its purposes and to prevent evasions of such provisions. Any executive officer of a member bank accepting a loan or extension of credit which is in violation of the provisions of this section shall be subject to removal from office in the manner prescribed in section 77 of this title: *Provided*, That for each day that a loan or extension of credit made in violation of this subsection exists, it shall be deemed to be a continuation of such violation within the meaning of said section 77. (As amended Aug. 23, 1935, c. 614, § 326(c), 49 Stat. 716.)

**§ 377. Affiliation with organization dealing in securities; penalties.** After one year from June 16, 1933, no member bank shall be affiliated in any manner described in subsection (b) of section 221b of this title with any corporation, association, business trust, or other similar organization engaged principally in the issue, flotation, underwriting, public sale, or distribution at wholesale or retail or through syndicate participation of stocks, bonds, debentures, notes, or other securities: *Provided*, That nothing in this paragraph shall apply to any such organization which

shall have been placed in formal liquidation and which shall transact no business except such as may be incidental to the liquidation of its affairs. (As amended Aug. 23, 1935, c. 614, § 302, 49 Stat. 707.)

**§ 378. Dealers in securities engaging in banking business; individuals or associations engaging in banking business; examinations and reports; penalties.** (a) After the expiration of one year after June 16, 1933, it shall be unlawful—

(1) For any person, firm, corporation, association, business trust, or other similar organization, engaged in the business of issuing, underwriting, selling, or distributing, at wholesale or retail, or through syndicate participation, stocks, bonds, debentures, notes, or other securities, to engage at the same time to any extent whatever in the business of receiving deposits subject to check or to repayment upon presentation of a passbook, certificate of deposit, or other evidence of debt, or upon request of the depositor: *Provided*, That the provisions of this paragraph shall not prohibit national banks or State banks or trust companies (whether or not members of the Federal Reserve System) or other financial institutions or private bankers from dealing in, underwriting, purchasing, and selling investment securities to the extent permitted to national banking associations by the provisions of section 24 of this title: *Provided further*, That nothing in this paragraph shall be construed as affecting in any way such right as any bank, banking association, savings bank, trust company, or other banking institution, may otherwise possess to sell, without recourse or agreement to repurchase, obligations evidencing loans on real estate; or

(2) For any person, firm, corporation, association, business trust, or other similar organization to engage, to any extent whatever with others than his or its officers, agents or employees, in the business of receiving deposits subject to check or to repayment upon presentation of a pass book, certificate of deposit, or other evidence of debt, or upon request of the depositor, unless such person, firm, corporation, association, business trust, or other similar organization (A) shall be incorporated under, and authorized to engage in such business by, the laws of the United States or of any State, Territory, or District, or (B) shall be permitted by any State, Territory, or District to engage in such business and shall be subjected by the law of such State, Territory, or District to examination and regulation, or (C) shall submit to periodic examination by the banking authority of the State, Territory, or District where such business is carried on and shall make and publish periodic reports of its condition, exhibiting in detail its resources and liabilities, such examination and reports to be made and published at the same times and in the same manner and under the same conditions as required by the law of such State, Territory, or District in the case of incorporated banking institutions engaged in such business in the same locality.

(b) Whoever shall willfully violate any of the provisions of this section shall upon conviction be fined not more than \$5,000 or imprisoned not more than five years, or both, and any officer, director, employee, or agent of any person, firm, corporation, association, business trust, or other similar organization who knowingly participates in any such violation shall be punished by a like fine or imprisonment or both. (As amended Aug. 23, 1935, c. 614, § 303, 49 Stat. 707.)

Amendment of Aug. 23, 1935, c. 614, added two provisos to end of paragraph (1) of subsection (a) and it affected paragraph (2).

## BANK RESERVES

**§ 461. Demand and time deposits defined.** The Board of Governors of the Federal Reserve System is authorized, for the purposes of this section, to define the terms "demand deposits", "gross demand deposits", "deposits payable on demand", "time deposits", "savings deposits", and "trust funds", to determine what shall be deemed to be a payment

of interest, and to prescribe such rules and regulations as it may deem necessary to effectuate the purposes of sections 462 to 466 of this chapter and prevent evasions thereof: *Provided*, That, within the meaning of the provisions of sections 462 to 466 of this chapter regarding the reserves required of member banks, the term "time deposits" shall include "savings deposits". (As amended Aug. 23, 1935, c. 614, § 324 (a), 49 Stat. 714.)

**§ 462. Balance which member banks must keep in reserve banks.**

Reserves against deposits of public moneys by United States, see § 462a-1 of this title.

**§ 462a. Reserves against United States deposits.**

This section would seem to be superseded by § 462a-1 of this title.

**§ 462a-1. Reserves against deposits by United States.** Notwithstanding the provisions of sections 462a of this title and 771 of Title 31, member banks shall be required to maintain the same reserves against deposits of public moneys by the United States as they are required by section 462 to maintain against other deposits. (Dec. 23, 1913, c. 6, § 19, as added Aug. 23, 1935, c. 614, § 324 (d), 49 Stat. 715.)

**§ 462b. Increase or decrease of reserve balances to meet credit expansion.** Notwithstanding the other provisions of this section, the Board of Governors of the Federal Reserve System, upon the affirmative vote of not less than four of its members, in order to prevent injurious credit expansion or contraction, may by regulation change the requirements as to reserves to be maintained against demand or time deposits or both by member banks in reserve and central reserve cities or by member banks not in reserve or central reserve cities or by all member banks; but the amount of the reserves required to be maintained by any such member bank as a result of any such change shall not be less than the amount of the reserves required by law to be maintained by such bank on August 23, 1935 nor more than twice such amount. (As amended Aug. 23, 1935, c. 614, § 207, 49 Stat. 706.)

**§ 465. Basis for ascertaining deposits against which required balance is determined.** In estimating the reserve balances required by this chapter, member banks may deduct from the amount of their gross demand deposits the amounts of balances due from other banks (except Federal Reserve banks and foreign banks) and cash items in process of collection payable immediately upon presentation in the United States, within the meaning of these terms as defined by the Board of Governors of the Federal Reserve System. (As amended Aug. 23, 1935, c. 614, § 324 (b), 49 Stat. 714.)

## BANK EXAMINATIONS

**§ 481. Appointment of examiners; examination of member banks, State banks, and trust companies; reports.** \* \* \* *Provided, however*, That, if the affiliation is with two or more national banks, such expenses may be assessed against, and collected from, any or all of such national banks in such proportions as the Comptroller of the Currency may prescribe. The examiners and assistant examiners making the examinations of national banking associations and affiliates thereof herein provided for and the chief examiners, reviewing examiners and other persons whose services may be required in connection with such examinations or the reports thereof, shall be employed by the Comptroller of the Currency with the approval of the Secretary of the Treasury: the employment and compensation of examiners, chief examiners, reviewing examiners, assistant examiners, and of the other employees of the office of the Comptroller of the Currency whose compensation, including retirement annuities to be fixed by the Comptroller of the Currency, is and shall be paid from assessments on banks or affiliates thereof shall be without regard to the provisions of other laws appli-

cable to officers or employees of the United States. The funds derived from such assessments may be deposited by the Comptroller of the Currency in accordance with the provisions of section 192 of this title and shall not be construed to be Government funds or appropriated monies; and the Comptroller of the Currency is authorized and empowered to prescribe regulations governing the computation and assessment of the expenses of examinations herein provided for and the collection of such assessments from the banks and/or affiliates examined. If any affiliate of a national bank shall refuse to permit an examiner to make an examination of the affiliate or shall refuse to give any information required in the course of any such examination, the national bank with which it is affiliated shall be subject to a penalty of not more than \$100 for each day that any such refusal shall continue. Such penalty may be assessed by the Comptroller of the Currency and collected in the same manner as expenses of examinations. (As amended Aug. 23, 1935, c. 614, § 343, 49 Stat. 722.)

**§ 482. Salaries of examiners; expense of examinations.** The Comptroller of the Currency shall fix the salaries of all bank examiners and make report thereof to Congress. \* \* \* (As amended Aug. 23, 1935, c. 614, § 343, 49 Stat. 722.)

Act of Aug. 23, 1935, c. 614, affected first sentence of section.

**§ 486. Waiver of requirements as to reports from or examinations of affiliates.** Whenever member banks are required to obtain reports from affiliates, or whenever affiliates of member banks are required to submit to examination, the Board of Governors of the Federal Reserve System or the Comptroller of the Currency, as the case may be, may waive such requirements with respect to any such report or examination of any affiliate if in the judgment of the said Board or Comptroller, respectively, such report or examination is not necessary to disclose fully the relations between such affiliate and such bank and the effect thereof upon the affairs of such bank. (Dec. 23, 1913, c. 6, § 21, as added Aug. 23, 1935, c. 614, § 325, 49 Stat. 715.)

## Chapter 5.—CRIMES AND OFFENSES

### IN GENERAL

**§ 583. Use of words "national", "Federal" or "United States"; penalty for unauthorized use.** The use of the word "national", the word "Federal" or the words "United States", separately, in any combination thereof, or in combination with other words or syllables, as part of the name or title used by any person, corporation, firm, partnership, business trust, association or other business entity, doing the business of bankers, brokers, or trust or savings institutions is prohibited except where such institution is organized under the laws of the United States, or is otherwise permitted by the laws of the United States to use such name or title, or is lawfully using such name or title on August 23, 1935; and any violation of this prohibition shall subject the party chargeable therewith to a penalty of \$50 for each day during which it is committed or repeated. (As amended Aug. 23, 1935, c. 614, § 318, 49 Stat. 718.)

**§ 585. Use of words "Federal", "United States", "Deposit Insurance", and reserve as part of business name.** No bank, banking association, trust company, corporation, association, firm, partnership, or person engaged in the banking, loan, building and loan, brokerage, factorage, insurance, indemnity, or trust business shall use the word "Federal," the words "United States," the words "Deposit Insurance," or the word "reserve," or any combination of such words, as a portion of its corporate, firm, or trade name or title or of the name under which it does business: *Provided, however*, That the provisions of this section shall not apply to the Federal Reserve Board, the Federal Farm Loan Board, the Federal

Trade Commission, or any other department, bureau, or independent establishment of the Government of the United States, nor to any Federal reserve bank, Federal land bank, or Federal reserve agent, nor to the Federal Advisory Council, nor to any corporation organized under the laws of the United States, nor to any new bank organized by the Federal Deposit Insurance Corporation as provided in section 264 of this title, nor to any bank, banking association, trust company, corporation, association, firm, partnership, or person actually engaged in business under such name or title prior to May 24, 1926. (As amended Aug. 23, 1935, c. 614, § 332, 49 Stat. 720.)

**§ 587. Violation of sections 584-586; penalties; injunctions.** Any bank, banking association, trust company, corporation, association, firm, or partnership violating any of the provisions of sections 584 to 586 of this title shall be guilty of a misdemeanor and shall be subject to a fine of not exceeding \$1,000. Any person violating any of the provisions of said sections, or any officer of any bank, banking association, trust company, corporation, or association, or member of any firm or partnership violating any of the provisions of said sections who participates in, or knowingly acquiesces in, such violations shall be guilty of a misdemeanor and shall be subject to a fine of not exceeding \$1,000 or imprisonment not exceeding one year, or both. Any such illegal use of such word or words, or any combination of such words, or any other violation of any of the provisions of said sections, may be enjoined by the United States district court having jurisdiction, at the instance of any United States district attorney, any Federal land bank, joint-stock land bank, Federal reserve bank, or the Federal Farm Loan Board or the Federal Reserve Board or the Federal Deposit Insurance Corporation. (As amended Aug. 23, 1935, c. 614, § 332, 49 Stat. 720.)

**§ 588a. Definition.** As used in section 588b of this title the term "bank" includes any member bank of the Federal Reserve System, and any bank, banking association, trust company, savings bank, or other banking institution organized or operating under the laws of the United States and any insured bank as defined in subsection (c) of section 264 of this title. (As amended Aug. 23, 1935, c. 614, § 333, 49 Stat. 720.)

#### FEDERAL RESERVE AND MEMBER BANKS, OFFICERS, EMPLOYEES, AND EXAMINERS

##### § 592. Embezzlement, etc.

Act of Aug. 23, 1935, c. 614, § 316, 49 Stat. 712, amended this section by inserting after the words "sections 221 to 225 of this title", the words "or of any national banking association, or of any insured bank as defined in subsection (c) of section 264 of this title"; and by inserting after the words "such Federal Reserve bank or member bank", wherever they appear in such section, the words "or such national banking association or insured bank"; and by inserting after the words "or the Comptroller of the Currency", the words "or the Federal Deposit Insurance Corporation."

**§ 593. Loans and gratuities.** No member bank and no insured bank as defined in subsection (c) of section 264 of this title and no officer, director, or employee thereof shall hereafter make any loan or grant any gratuity to any bank examiner or assistant examiner, who examines or has authority to examine such bank. Any bank officer, director, or employee violating this provision shall be deemed guilty of a misdemeanor and shall be imprisoned not exceeding one year, or fined not more than \$5,000, or both, and may be fined a further sum equal to the money so loaned or gratuity given.

Any examiner or assistant examiner who shall accept a loan or gratuity from any bank examined by him, or from an officer, director, or employee thereof, or who shall steal, or unlawfully take, or unlawfully conceal any money, note, draft, bond, or security or any other property of value in the possession of any member bank or insured bank or from any safe deposit box in or adjacent to the premises of such bank,

shall be deemed guilty of a misdemeanor and shall, upon conviction thereof in any district court of the United States, be imprisoned for not exceeding one year, or fined not more than \$5,000, or both, and may be fined a further sum equal to the money so loaned, gratuity given, or property stolen, and shall forever thereafter be disqualified from holding office as a national bank examiner or Federal Deposit Insurance Corporation examiner.

The provisions of this subsection shall apply to all public examiners and assistant examiners who examine member banks of the Federal Reserve System or insured banks, whether appointed by the Comptroller of the Currency, by the Board of Governors of the Federal Reserve System, by a Federal Reserve agent, by a Federal Reserve bank, or by the Federal Deposit Insurance Corporation, or appointed or elected under the laws of any State; but shall not apply to private examiners or assistant examiners employed only by a clearing-house association or by the directors of a bank. (As amended Aug. 23, 1935, c. 614, § 326 (a), 49 Stat. 715.)

**§ 594. Bank examiners; performance of other services for compensation; disclosure of information.** No national-bank examiner and no Federal Deposit Insurance Corporation examiner shall perform any other service for compensation while holding such office for any bank or officer, director, or employee thereof.

No examiner, public or private, shall disclose the names of borrowers or the collateral for loans of a member bank or insured bank to other than the proper officers of such bank without first having obtained the express permission in writing from the Comptroller of the Currency, as to a national bank, the Board of Governors of the Federal Reserve System as to a State member bank, or the Federal Deposit Insurance Corporation as to any other insured bank, or from the board of directors of such bank, except when ordered to do so by a court of competent jurisdiction, or by direction of the Congress of the United States, or of either House thereof, or any committee of Congress, or of either House duly authorized. Any bank examiner violating the provisions of this section shall be imprisoned not more than one year or fined not more than \$5,000, or both. (As amended Aug. 23, 1935, c. 614, § 326 (b), 49 Stat. 715.)

#### Chapter 6.—FOREIGN BANKING

##### ESTABLISHMENT BY NATIONAL BANKS OF FOREIGN BRANCHES AND INVESTMENTS IN BANKS DOING FOREIGN BUSINESS

##### § 605. Interlocking directors, officers, and employees. [Repealed.]

This section is repealed by Act Aug. 23, 1935, c. 614, § 329, 49 Stat. 717.

##### § 619. Capital stock; by whom held; holding office in or being employed by other corporation.

Act of Aug. 23, 1935, c. 614, § 329, 49 Stat. 717, amended section by striking out all of section with the exception of the first sentence.

#### ORGANIZATION OF CORPORATIONS TO DO FOREIGN BANKING

##### § 625. Stockholders' meetings; books and records; reports; examination.

The catchline of this section should read as above.

#### Chapter 7.—FARM CREDIT ADMINISTRATION

##### SUBCHAPTER I.—FEDERAL LAND BANKS, JOINT-STOCK LAND BANKS, AND NATIONAL FARM LOAN ASSOCIATIONS

##### § 659. Attorneys, experts, and other employees; employment; salaries and fees.

"others" in line 14 should be "other."

##### § 682a. Disqualification on conviction of felony or court award of damages for fraud. On and after

June 3, 1935 no person shall be eligible for appointment or election as an administrative or executive official or as a member of the board of directors of a Federal land bank, or shall continue to hold office as such member or as an ex-officio director of a Federal intermediate credit bank or of any corporation or bank organized pursuant to sections 1131 to 1135f of this title, if such person has been finally adjudged guilty of a felony, or finally adjudged liable in damages in any civil proceeding for fraud, in any State or Federal court. (June 3, 1935, c. 164, § 23, 49 Stat. 320.)

**§ 716. Number of incorporators; organization; directors; secretary-treasurer.** Ten or more persons who are the owners, or about to become the owners, of farm lands qualified as security for a mortgage loan under section 771 of this chapter, may unite to form a national farm-loan association. They shall organize subject to the requirements and the conditions specified in sections 711-723 and in sections 671-683 of this chapter, so far as the same may be applicable: *Provided*, That the board of directors may consist of five members only, and instead of a secretary and a treasurer there shall be a secretary-treasurer, who need not be a shareholder of the association. As used in this section, the term "person" includes an individual, an incorporated association, and a corporation which is eligible for a loan under section 771 of this chapter. (As amended June 3, 1935, c. 164, § 19, (a), (b), 49 Stat. 319.)

**§ 723. Federal land banks; direct loans.**

"unit" in line 10 of subsection (d) should be "unite."

**§ 745. New members.** After a charter has been granted to a national farm loan association, any person who is the owner, or about to become the owner, of farm land qualified under section 771 of this chapter as the basis of a mortgage loan, and who desires to borrow on a mortgage of such farm land, may become a member of the association by a two-thirds vote of the directors upon subscribing for one share of the capital stock of such association for each \$100 of the face of his proposed loan or any major fractional part thereof. He shall at the same time file with the secretary-treasurer his application for a mortgage loan, giving the particulars required by section 771 of this chapter. As used in this section, the term "person" includes an individual, an incorporated association, and a corporation which is eligible for a loan under section 771 of this chapter. (As amended June 3, 1935, c. 164, § 20, 49 Stat. 319.)

**§ 755. Examinations by land bank appraisers as to farm loan bonds and first mortgages.**

"mortgage" in line 5 should be "mortgages."

**§ 771. Restrictions enumerated.**

**Fifth. Limitation on amount of loans; appraisal; reappraisal.**—No such loan shall exceed 50 per centum of the value of the land mortgaged and 20 per centum of the value of the permanent, insured improvements thereon, said value to be ascertained by appraisal, as provided in sections 751-756 of this chapter. In making said appraisal the value of the land for agricultural purposes shall be the basis of appraisal and the earning power of said land shall be a principal factor.

That in making loans to owners of groves and orchards, including citrus fruit groves and other fruit groves and orchards, the Federal land banks, the farm land banks, and all Government agencies making loans upon such character of property may, in appraising the property offered as security, give a reasonable and fair valuation to the fruit trees located and growing upon said property and constituting a substantial part of its value. In determining the earning power of land used for the raising of livestock, due consideration shall be given to the extent to which the earning power of the fee-owned land is augmented by a lease or permit, granted by lawful authority of the United States or of any State, for the use of a

portion of the public lands of the United States or of such State, where such permit or lease is in the nature of a right adjunctive to such fee-owned land, and its availability for use as such during the terms of the loan is reasonably assured.

A reappraisal may be permitted at any time in the discretion of the Federal land bank, and such additional loan may be granted as such reappraisal will warrant under the provisions of this paragraph. Whenever the amount of the loan applied for exceeds the amount that may be loaned under the appraisal as herein limited, such loan may be granted to the amount permitted under the terms of this paragraph without requiring a new application or appraisal. (As amended June 3, 1935, c. 164, § 22, 49 Stat. 319.)

**Sixth. Restrictions on eligibility for loans; assumption of mortgage and stock interests by purchaser of land or heir.**—No such loan shall be made to any person who is not at the time, or shortly to become, engaged in farming operations or to any other person unless the principal part of his income is derived from farming operations. In case of the sale of the mortgaged land, the Federal land bank may permit said mortgage and the stock interests of the vendor to be assumed by the purchaser. In case of the death of the mortgagor, his heir or heirs, or his legal representative or representatives, shall have the option within sixty days of such death, to assume the mortgage and stock interests of the deceased. As used in this paragraph (1) the term "person" includes an individual or a corporation engaged in the raising of livestock; and (2) the term "corporation" includes any incorporated association; but no such loan shall be made to a corporation (A) unless all the stock of the corporation is owned by individuals themselves personally actually engaged in the raising of livestock on the farm to be mortgaged as security for the loan, except in a case where the Land Bank Commissioner permits the loan if at least 75 per centum in value and number of shares of the stock of the corporation is owned by the individuals personally actually so engaged, and (B) unless the owners of at least 75 per centum in value and number of shares of the stock of the corporation assume personal liability for the loan. No loan shall be made to any corporation which is a subsidiary of, or affiliated (either directly or through substantial identity of stock ownership) with, a corporation ineligible to procure a loan in the amount applied for. (As amended June 3, 1935, c. 164, § 18, 49 Stat. 319.)

**Twelfth. Reduction of interest on loans and deferment of principal.**—Notwithstanding the provisions of paragraph Second of this section, the rate of interest on any loans on mortgage made through national farm loan associations or through agents as provided in sections 801 to 808 of this chapter, or purchased from joint stock land banks, by any Federal land bank, outstanding on the date this paragraph takes effect or made through national farm loan associations after such date, shall not exceed  $3\frac{1}{2}$  per centum per annum for all interest payable on installment dates occurring within a period of one year commencing July 1, 1935, and shall not exceed 4 per centum per annum for all interest payable on installment dates occurring within a period of two years commencing July 1, 1936; and no payment of the principal portion of any installment of any such loan outstanding on the date of June 3, 1935, shall be required prior to July 11, 1938, if the borrower shall not be in default with respect to any other condition or covenant of his mortgage. The foregoing provisions shall apply to loans made by Federal land banks through branches, except that the rates of interest paid for the respective periods above specified shall be one-half of 1 per centum per annum in excess of the rates of interest paid during the corresponding periods by borrowers on mortgage loans made through national farm loan associations. The Secretary of the Treasury shall pay each Federal land bank, as



soon as practicable after October 1, 1933, and after the end of each quarter thereafter, such amount as the Land Bank Commissioner certifies to the Secretary of the Treasury is equal to the amount by which interest payments on mortgages held by such bank have been reduced, during the preceding quarter, by reason of this paragraph; but in any case in which the Land Bank Commissioner finds that the amount of interest payable by such bank during any quarter has been reduced by reason of the refinancing of bonds under section 991 of this chapter, the amount of the reduction so found shall be deducted from the amount payable to such bank under this paragraph. No payments shall be made to a bank with respect to any period after June 30, 1933. There is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$15,000,000 for the purpose of enabling the Secretary of the Treasury to make payments to Federal land banks which accrue during the fiscal year ending June 30, 1934, and such additional amounts as may be necessary to make payments accruing during subsequent fiscal years (As amended June 3, 1935, c. 164, § 3, 49 Stat. 319.)

The amendment by Act June 3, 1935, c. 164, was effective July 1, 1935.

The provisions of this section with reference to reserves against United States deposits would seem to be superseded by § 462a-1 of this title

**§ 772. Loans to be in current funds, bonds of corporation, or farm loan bonds.**

The catchline of this section should read as above.

**§ 781. Enumerated powers.**

The catchline of paragraph Sixteenth should read as follows: "Exchange of Federal Farm Mortgage bonds for farm loan bonds."

**§ 804. Expenses of and commissions to agents.**

The comma after "examining" in line 4 should be omitted.

**§ 823. Assets of liquidating bank; purchase by Federal or joint stock land bank; assumption of liabilities.**

**LOANS TO JOINT STOCK LAND BANKS TO PROVIDE FOR ORDERLY LIQUIDATION**

SEC. 30 (a) The Reconstruction Finance Corporation is authorized and directed to make available to the Land Bank Commissioner, out of the funds of the Corporation, the sum of \$100,000,000, to be used, for a period not exceeding four years from the date of enactment of this Act, for the purpose of making loans to the joint stock land banks organized and doing business under the Federal Farm Loan Act, as amended, at a rate of interest not to exceed 4 per centum per annum, payable annually. Such loans shall be made upon application therefor by such banks and upon compliance with the requirements of this section. The amount which may be loaned hereunder to any such bank shall not exceed an amount having the same proportion to the said \$100,000,000 as the unpaid principal of the mortgages held by such bank on the date of enactment of this Act bears to the total amount of the unpaid principal of the mortgages held by all the joint stock land banks on such date.

(b) Any joint stock land bank applying for a loan under this section shall deliver to the Land Bank Commissioner as collateral security therefor first mortgages or purchase-money mortgages on farm lands, first mortgages on farm real estate owned by the bank in fee simple, or such other collateral as may be available to said bank, including sales contracts and sheriff's certificates on farm lands. The real estate upon which such collateral is based shall be appraised by appraisers appointed under the Federal Farm Loan Act, as amended, and the borrowing bank shall be entitled to borrow not to exceed 60 per centum of the normal value of such real estate as determined by such appraisal. Fees for such appraisals shall be paid by the applicant banks in such amounts as may be fixed by the Land Bank Commissioner. No such loan shall be made until the applicant bank, under regulations to be prescribed by the Land Bank Commissioner, (1) shall have agreed to grant to each borrower then indebted to the bank under the terms of a first mortgage a reduction to 5 per centum per annum in the rate of interest specified in such mortgage, beginning at his next regular installment date and (2) shall have agreed to the satisfaction of the Commissioner that during a period of two years from June 3, 1935, the bank will not proceed against the mortgagor on account of default in the payment of interest or principal due under the terms of its mortgage and will not foreclose its mortgage unless the property covered by such mortgage is abandoned by the mortgagor or unless, in the opinion of the Commissioner, such foreclosure is necessary for other reasons. Such loans shall be made to

and the orderly liquidation of any such bank in accordance with such plan as may be approved by the Land Bank Commissioner. Before any such plan is approved by the Commissioner he shall be satisfied that the plan carries out the purposes of this section and that such part of the proceeds of the loan as is devoted to settlements with bondholders will be used only to effect an equitable settlement with all bondholders. After the plan has been approved by the Commissioner he shall require the bank to mail a copy thereof to all its known bondholders and to publish a notice setting forth its provisions in at least three newspapers having general circulation (May 12, 1933, c. 25, § 30, 48 Stat. 46, as amended June 16, 1933, c. 98, § 80(a), 48 Stat. 273; June 3, 1935, c. 164, § 16, 49 Stat. 318.)

**LOANS BY THE FARM LOAN COMMISSIONER TO JOINT STOCK LAND BANKS FOR EMERGENCY PURPOSES**

SEC. 31. (a) Out of the funds made available to him under section 30, the Land Bank Commissioner is authorized to make loans, in an aggregate amount not exceeding \$25,000,000, at a rate of interest not to exceed 4 per centum per annum, to any joint stock land bank for the purpose of securing the postponement until May 13, 1937, of the foreclosure of first mortgages held by such banks on account of (1) default in the payment of interest and principal due under the terms of the mortgage, and (2) unpaid delinquent taxes, excluding interest and penalties, which may be secured by the lien of said mortgage: Provided, That during the period of postponement of foreclosure such bank shall charge the mortgagor interest at a rate not exceeding 4 per centum per annum on the aggregate amount of such delinquent taxes and defaulted interest and principal with respect to which loans are made pursuant to this section. The amount loaned to any joint-stock land bank under this section shall be made without reappraisal: Provided, That the amount loaned with respect to any mortgage on account of unpaid principal shall not exceed 5 per centum of the total unpaid principal of such mortgage, and the total amount loaned to any such land bank with respect to any mortgage shall not exceed 25 per centum of the total unpaid principal of such mortgage.

(b) No such loan shall be made with respect to any mortgage unless the Land Bank Commissioner is satisfied that the mortgagor, after exercising ordinary diligence to pay his accrued delinquent taxes, and meet accrued interest and principal payments, has defaulted thereon; and unless the bank shall have agreed to the satisfaction of the Land Bank Commissioner that during the period of postponement the bank will not foreclose such mortgage unless the property covered thereby is abandoned by the mortgagor or unless in the opinion of the Land Bank Commissioner such foreclosure is necessary for other reasons.

(c) Each such loan shall be secured by an assignment to the Land Bank Commissioner of the lien of the taxes and/or of the bank's mortgage with respect to which the loan is made: Provided, That the part of each such lien so assigned representing the interest and principal due and unpaid in any such mortgage which has been assigned to the farm loan registrar shall be subordinate to the existing lien of the bank for the balance of the indebtedness then or thereafter to become due under the terms of such mortgage; but the Land Bank Commissioner may require the bank to furnish additional collateral as security for such loan, if such collateral is available to the bank.

(d) The Land Bank Commissioner is authorized to make such rules and regulations as may be necessary to carry out the purposes of this section and to make the relief contemplated immediately available. (May 12, 1933, c. 25, § 31, 48 Stat. 47, as amended June 16, 1933, c. 98, § 80(a), 48 Stat. 273; June 3, 1935, c. 164, § 17 (a), (b), 49 Stat. 318.)

**§ 913. Dividends on balance of net earnings.** After deducting the 10 per centum or the 5 per centum hereinbefore directed to be credited to reserve account, said association may at its discretion declare a dividend to shareholders of the whole or any part of the balance of said net earnings: *Provided*, That the declaration and payment of any such dividend shall be subject to the approval of the Land Bank Commissioner. (As amended June 3, 1935, c. 164, § 4, 49 Stat. 315.)

**§ 952. Requirements, responsibilities, and penalties applicable to examiners; examinations; reports.**

"Board" in line 8 should be omitted

**§ 981. False statements in applications for loans; willful overvaluation of land; acceptance of loan or gratuity by examiners.** Any applicant for a loan under this subchapter, or officer or representative of any such applicant, who shall knowingly make any false statement in the application for such loan, and any member of a loan committee or any appraiser provided for in this subchapter who shall willfully overvalue any land offered as security for loans under this subchapter, shall be punished by a fine of not exceeding \$5,000, or by imprisonment not exceeding one year, or both \* \* \* (As amended June 3, 1935, c. 164, § 21, 49 Stat. 319.)

**§ 982. Falsely making, forging, or counterfeiting bonds or coupons; passing false bonds or coupons; falsely altering.**

"and" in line 7 should be "any".

## SUBCHAPTER II.—LOANS TO FARMERS BY LAND BANK COMMISSIONER

**§ 1016. Loan to farmers by Land Bank Commissioner; provisions governing.**

(a-1) **Valuation of farm property.** For the purposes of this section, farm property may be valued at an amount representing a prudent investment, consistent with community standards and rentals, if (1) the person occupying the property is not entirely dependent upon farm income for his livelihood but receives a part of his income from other dependable sources, and (2) the farm income from the property, together with earnings from other dependable sources ordinarily available in the community to a person operating such property, would be sufficient to support his family, to pay operating expenses and fixed charges, and to discharge the interest and amortization payments on the loan. (May 28, 1935, c. 150, § 32, 49 Stat. 300.)

(c) **Provisions to be included in mortgage; interest rate; repayment of principal in installments; maximum terms of loans as affected by character of security; privilege of deferring principal payments during first three years of loan.** Every mortgage made under this section shall contain an agreement providing for the repayment of the loan on an amortization plan by means of a fixed number of annual or semiannual installments, sufficient to cover (1) interest on unpaid principal at a rate not to exceed 5 per centum per annum and (2) such payments equal in amount to be applied on principal as will extinguish the debt within an agreed period of not more than ten years or, in the case of a first or second mortgage secured wholly by real property within an agreed period no greater than that for which loans may be made under the preceding subchapter, as amended, from the date the first payment on principal is due: *Provided*, That during the first three years the loan is in effect payments of interest only may be required if the borrower shall not be in default with respect to any other condition or covenant of his mortgage. (As amended June 3, 1935, c. 164, § 2 (a), 49 Stat. 313.)

(e) **Purposes of loans.** Loans may be made under this section for any of the purposes for which Federal land banks are authorized by law to make loans, and for the following additional purpose, and none other: Refinancing, either in connection with proceedings under chapter VIII of the Bankruptcy Act of July 1, 1898, as amended, or otherwise, any indebtedness, secured or unsecured, of the farmer, or which is secured by a lien on all or any part of the farm property accepted as security for the loan. The provisions of paragraph "Ninth" of section 781 of this chapter, as amended (relating to charges to applicants for loans and borrowers from the Federal land banks), shall, so far as practicable, apply to loans made under this section. (As amended June 3, 1935, c. 164, § 2 (b), 49 Stat. 320.)

(f) **Definitions; loans to corporations; exceptions.** As used in this section, (1) the term "farmer" means any person who is at the time, or shortly to become, bona fide engaged in farming operations, either personally or through an agent or tenant, or the principal part of whose income is derived from farming operations or livestock raising, and includes a personal representative of a deceased farmer; (2) the term "person" includes an individual or a corporation engaged in the raising of livestock; and (3) the term "corporation" includes any incorporated association; but no such loan shall be made to a corporation (A) unless all the stock of the corporation is owned by individuals themselves personally actually

engaged in the raising of livestock on the land to be mortgaged as security for the loan, except in a case where the Land Bank Commissioner permits the loan if at least 75 per centum in value and number of shares of the stock of the corporation is owned by the individuals personally actually so engaged, and (B) unless the owners of at least 75 per centum in value and number of shares of the stock of the corporation assume personal liability for the loan. No loan shall be made to any corporation which is a subsidiary of, or affiliated (either directly or through substantial identity of stock ownership) with, a corporation ineligible to procure a loan in the amount applied for. (As amended June 3, 1935, c. 164, § 2 (c), 49 Stat. 313.)

(g) **Loans by Commissioner on behalf of Federal Farm Mortgage Corporation; loans in cash or bonds; amount available.** Until February 1, 1940, the Land Bank Commissioner shall, in his name, make loans under this section on behalf of the Federal Farm Mortgage Corporation, and may make such loans in cash or in bonds of the corporation, or if acceptable to the borrower, in consolidated farm loan bonds; but no such loans shall be made by him after February 1, 1940, except for the purpose of refinancing loans previously made by him under this section. As much as may be necessary of the assets of the corporation, including the bonds (and proceeds thereof) issued under section 1020c of this title, may be used for the purposes of this section. (As amended June 3, 1935, c. 164, § 2 (d), 49 Stat. 314.)

(h) **Execution of instruments by Federal land banks; presumption of authority.** Any Federal land bank, when duly authorized by the Land Bank Commissioner and the Federal Farm Mortgage Corporation, shall have the power to execute any instrument relating to any mortgage taken to secure a loan made or to be made under this section, or relating to any property included in any such mortgage, or relating to any property acquired by the Land Bank Commissioner and/or the Federal Farm Mortgage Corporation. Any such instrument heretofore or hereafter executed on behalf of the Land Bank Commissioner and/or the Federal Farm Mortgage Corporation by a Federal land bank, through its duly authorized officers, shall be conclusively presumed to have been duly authorized by the Land Bank Commissioner and the Federal Farm Mortgage Corporation. (As amended June 3, 1935, c. 164, § 2 (e), 49 Stat. 314.)

**§ 1020c. Bonds, aggregate amount; guaranty by United States; purchase and sale of by United States; exchange of for consolidated farm loan bonds.**

The comma in line 38 should be omitted. "Secretray" in line 40 should be "Secretary."

## SUBCHAPTER III.—FEDERAL INTERMEDIATE CREDIT BANKS

**§ 1022. Location; directors; officers and employees.**

Disqualification on conviction of felony or civil judgment for damages for fraud, see section 682a of this title.

**§ 1031. Lending powers; purchase and sale of debentures of intermediate credit banks; loans to cooperative associations.**

(1) To discount for, or purchase from, any national bank, and/or any State bank, trust company, agricultural credit corporation, incorporated livestock loan company, savings institution, cooperative bank, credit union, cooperative association of agricultural producers, organized under the laws of any State or of the Government of the United States, and/or any other Federal Intermediate Credit Bank, with its endorsement, any note, draft, bill of exchange, debenture, or other such obligation the proceeds of which have been advanced or used in the first instance for any agricultural purpose or for the raising, breeding, fattening, or marketing of livestock; and to make loans or advances direct to any such organization, secured by such obligations; and to discount for, or purchase from, any production credit association or

bank for cooperatives organized under sections 1131d, 1134 and 1134a of this title, or any production credit association in which a Production Credit Corporation organized under such sections holds stock, with its indorsement, any note, draft, bill of exchange, debenture, or other such obligation presented by such association or bank, and to make loans and advances direct to any such association or bank secured by such collateral as may be approved by the Governor of the Farm Credit Administration;

(2) To buy or sell, with or without recourse, debentures issued by any other Federal intermediate credit bank; and

(3) To make loans or advances direct to any cooperative association organized under the laws of any State and composed of persons engaged in producing, or producing and marketing, staple agricultural products, or livestock, if the notes or other such obligations representing such loans are secured by warehouse receipts, and/or shipping documents covering such products, and/or mortgages on livestock, and/or such other collateral as may be approved by the Governor of the Farm Credit Administration: *Provided*, That no such loan or advance, when secured only by warehouse receipts and/or shipping documents, and/or mortgages on livestock, shall exceed 75 per centum of the market value of the products covered by said warehouse receipts and/or shipping documents, or of the livestock covered by said mortgages; and to accept drafts or bills of exchange issued or drawn by any such association when secured by warehouse receipts and/or shipping documents covering staple agricultural products as herein provided, at such rates of commission as may be approved by the Governor of the Farm Credit Administration. (As amended June 3, 1935, c. 164, § 5 (a), (b), 49 Stat. 315.)

**§ 1034. Interest or discount charges; rediscount of paper of other intermediate credit banks.** [Repealed.]

This section (Act July 17, 1916, c. 245, § 202 (d); Act Mar. 4, 1923, c. 252, § 2, 42 Stat. 1456; Mar. 27, 1933, Ex. Or. 6084) was repealed by Act June 3, 1935, c. 164, § 5 (c), 49 Stat. 315.

**§ 1041. Collateral trust debentures or similar obligations; security for; maturity; limitation respecting amount.** Federal intermediate credit banks, when chartered and established, shall have power, subject to the approval of the Farm Credit Administration, to borrow money and to issue and to sell collateral trust debentures or other similar obligations with a maturity at the time of issue of not more than five years, which shall be secured by at least a like face amount of cash, or notes or other such obligations discounted or purchased or representing loans made under section 1031: *Provided*, That the aggregate amount of the outstanding debentures and similar obligations issued individually by any Federal intermediate credit bank, together with the amount of outstanding consolidated debentures issued for its benefit and account, shall not exceed ten times the surplus and paid-in capital of such bank. (As amended June 3, 1935, c. 164, § 6 (a), 49 Stat. 315.)

**§ 1044. Consolidated debentures; authority of intermediate credit banks to issue and sell.** Whenever it shall appear desirable to issue consolidated debentures of the twelve Federal intermediate credit banks and to sell them through a common selling agency, and the Federal intermediate credit banks shall, by resolutions, consent to the same, the banks may issue and sell said debentures subject to the provisions of this section and the provisions of sections 871–886 of this title, insofar as applicable. As used in this title, the term “debentures” includes such consolidated debentures. (July 17, 1916, c. 245, § 203 (d), as added June 3, 1935, c. 164, § 6 (b), 49 Stat. 315.)

**§ 1045. Investment of fiduciary and trust funds in debentures of intermediate credit banks; security for public deposits.** All debentures issued by Federal intermediate credit banks shall be lawful investments, and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit

of which shall be under the authority or control of the United States or of any officer or officers thereof. (July 17, 1916, c. 245, § 203 (e), as added June 3, 1935, c. 164, § 6 (b), 49 Stat. 316.)

**§ 1051. Establishment of and approval of; limitations on.** Any Federal intermediate credit bank may, with the approval of the Intermediate Credit Commissioner, from time to time establish rates of discount and interest which, except with the approval of the Governor of the Farm Credit Administration, shall not exceed by more than 1 per centum per annum the rate borne by the last preceding issue of debentures which it issued or in which it participated. Any Federal intermediate credit bank may be required by the Governor of the Farm Credit Administration to acquire, upon such terms as he may approve, loans and/or discounts of any other Federal intermediate credit bank. (As amended June 3, 1935, c. 164, § 7, 49 Stat. 316.)

**§ 1095. Reports on condition of institutions receiving loans or deposits.** The executive departments, boards, commissions, and independent establishments of the Government, the Reconstruction Finance Corporation, the Federal Deposit Insurance Corporation, the Federal Reserve Board, and the Federal Reserve banks are severally authorized, under such conditions as they may prescribe, to make available to any Federal intermediate credit bank, in confidence, upon the request of the Governor of the Farm Credit Administration, such reports, records, or other information as they may have available relating to the condition of any institution to which a Federal intermediate credit bank has made, or contemplates making, loans, or which it is using, or contemplates using, as a custodian of securities or other credit instruments, or as a depository. (July 17, 1916, c. 245, § 208 (e), as amended June 3, 1935, c. 164, § 8, 49 Stat. 316.)

#### SUBCHAPTER IV.—PRODUCTION CREDIT CORPORATIONS AND PRODUCTION CREDIT ASSOCIATIONS

**§ 1131. Establishment; number; location.**

Disqualification on conviction of felony or civil judgment for damages for fraud, see section 682a of this title.

**§ 1131d. Organization; articles of association; charters; bylaws; powers of governor respecting associations.**

Disqualification on conviction of felony or civil judgment for damages for fraud, see section 682a of this title.

**§ 1131j. Loans to oyster planters; purchase and discounting paper by Federal intermediate credit banks.** Subject to the approval of the Governor of the Farm Credit Administration and under rules and regulations to be prescribed by the Production Credit Commissioner, production credit associations organized under this subchapter are authorized to make loans to oyster planters; to sell, discount, assign, or otherwise dispose of any loans made by them under the provisions of this section; and to do any and all other things necessary to carry these provisions into effect. With the approval of the Governor of the Farm Credit Administration and under rules and regulations to be prescribed by the Intermediate Credit Commissioner, the Federal intermediate credit banks are authorized and empowered to discount for or purchase from any production credit association any note, draft, or other such obligation representing a loan or loans made under the provisions of this section; and to make loans or advances direct to any such organization secured by such obligations. (As amended June 3, 1935, c. 164, § 17 (c), 49 Stat. 318.)

#### SUBCHAPTER V.—REGIONAL BANKS FOR CO-OPERATIVES AND CENTRAL BANK FOR CO-OPERATIVES

**§ 1134. Establishment; number; location.**

Disqualification on conviction of felony or civil judgment for damages for fraud, see section 682a of this title



**§ 1134c. Lending power.** Subject to such terms and conditions as may be prescribed by the Governor, the banks for cooperatives are authorized: (a) to make loans to cooperative associations as defined in subchapter VII of this chapter, for any of the purposes and subject to the conditions and limitations set forth in such subchapter; (b) to make loans (by way of discount or otherwise) to any bank organized under this subchapter; (c) to buy from, and sell to, any such bank or any Federal intermediate credit bank any note, draft, bill of exchange, debenture, or other obligation; and (d) to borrow from, and discount or rediscount paper with, any and all such banks. (As amended June 3, 1935, c. 164, § 14, 49 Stat. 316.)

**§ 1134g. Board of directors.**

Disqualification on conviction of felony or civil judgment for damages for fraud, see section 682a of this title

**§ 1134j. Lending power; prevention of duplication of effort on the part of central bank and banks for cooperatives.** Subject to such terms and conditions as may be prescribed by the Chairman of its Board of Directors, the Central Bank is authorized: (a) to make loans to cooperative associations, as defined in subchapter VII of this chapter, for any of the purposes and subject to the conditions and limitations set forth in such Act, as amended; (b) to make loans (by way of discount or otherwise) to banks for cooperatives organized under section 1134 of this subchapter; (c) to buy from, and sell to, any such bank or any Federal intermediate credit bank any note, draft, bill of exchange, debenture, or other obligations; and (d) to borrow from, and discount or rediscount paper with, any and all such banks. (As amended June 3, 1935, c. 164, § 13, 49 Stat. 316.)

**§ 1134k. Ownership of stock by associations borrowing from bank; payment into bank's guaranty fund by associations not authorized to purchase stock.** (a) Cooperative associations borrowing from the Central Bank shall be required to own, at the time the loan is made, an amount of stock of the bank equal in fair book value (not to exceed par), as determined by the bank, to \$100 per \$2,000 or fraction thereof of the amount of the loan, except that, in connection with any loan made on the security of commodities, the borrower shall be required to own, at the time the loan is made, only such amount of stock as may be prescribed by rules and regulations of the Governor. Upon discharge of the loan, stock held by the borrowing association may be, and upon the concurrent or subsequent request of the borrowing association shall be, retired and canceled, and the association shall be paid therefor an amount equal to the amount paid for such stock or loaned to subscribe therefor, as the case may be, minus the pro rata impairment, if any, of capital and guaranty fund of the Central Bank, as determined by the Chairman of the Board of the Central Bank.

(b) In any case in which a cooperative association applying for a loan is not authorized, under the law of the State in which it is organized, to subscribe for stock in the Central Bank, the bank shall, in lieu of stock subscription, require the borrowing association to pay into a guaranty fund, or the bank may retain out of the amount of the loan and credit to the guaranty fund, an amount equal to the amount which the borrowing association would have been required to own in stock if such association had been authorized to hold such stock. Upon discharge of its loan, the provisions of the last sentence of subsection (a) shall apply with respect to sums of such association in the guaranty fund in the same manner as if such sums were represented by stock.

(c) In any case where the debt of a borrower to the Central Bank is in default, the bank may, in accordance with rules and regulations prescribed by the Governor, retire and cancel all or a part of the stock of the defaulting borrower at the fair book value thereof (not exceeding par), in total or partial liquidation of the debt, as the case may be. (As amended June 3, 1935, c. 164, § 15, 49 Stat. 318.)

**SUBCHAPTER VII.—AGRICULTURAL  
MARKETING ACT**

**§ 1141e. Loans to cooperative associations. (a)**

(2) The construction or acquisition by purchase or lease, or refinancing the cost of such construction or acquisition, of physical facilities.

(c) (1) No loan shall be made in an amount in excess of 60 per centum of the appraised value of the security therefor. (As amended June 3, 1935, c. 164, §§ 9, 10, 49 Stat. 316.)

**§ 1141f. Miscellaneous loan provisions. (a)** Loans to any cooperative association shall bear such rates of interest as the Governor of the Farm Credit Administration shall from time to time determine to be necessary for the needs of the lending agencies and shall by regulation prescribe (but in no case shall the rate of interest exceed 6 per centum per annum on the unpaid principal): *Provided, however,* That the rate of interest on any loan made under the provisions of section 1141e (a) (1) hereof, other than upon the security of commodities, shall conform as nearly as may be practicable to a rate 1 per centum in excess of the prevailing interest rate paid by production credit associations to the Federal intermediate credit bank of the land bank district in which the principal business office of the borrower is located; the rate of interest on any loan made upon the security of commodities shall conform, as nearly as may be practicable, to the prevailing interest rate on commodity loans charged borrowers from the Federal intermediate credit bank of the land bank district in which the principal business office of the borrower is located; and that the rate of interest on any loan made under the provisions of section 1141e (a) (2) hereof shall conform as nearly as may be practicable to the prevailing rate on mortgage loans made to members of national farm loan associations. (As amended June 3, 1935, c. 164, § 11, 49 Stat. 316.)

**§ 1141j. Miscellaneous provisions. (a)** As used in this subchapter, the term "cooperative association" means any association in which farmers act together in processing, preparing for market, handling, and/or marketing the farm products of persons so engaged, and also means any association in which farmers act together in purchasing, testing, grading, processing, distributing, and/or furnishing farm supplies and/or farm business services: *Provided, however,* That such associations are operated for the mutual benefit of the members thereof as such producers or purchasers and conform to one or both of the following requirements:

First. That no member of the association is allowed more than one vote because of the amount of stock or membership capital he may own therein; and

Second. That the association does not pay dividends on stock or membership capital in excess of 8 per centum per annum.

And in any case to the following:

Third. That the association shall not deal in farm products, farm supplies, and farm business services with or for nonmembers in an amount greater in value than the total amount of such business transacted by it with or for members. All business transacted by any cooperative association for or on behalf of the United States or any agency or instrumentality thereof shall be disregarded in determining the volume of member and nonmember business transacted by such association. (As amended June 3, 1935, c. 164, § 12, 49 Stat. 317.)

## Chapter 11.—FEDERAL HOME LOAN BANK ACT

## § 1422. Definitions.

This section was amended by Act May 28, 1935, c. 150, 49 Stat. 293, by striking out in subdivision (6) the word "three" and inserting in lieu thereof the word "four"

## § 1426. Capital stock.

(k) **Dividends.** All stock of any Federal Home Loan Bank shall share in dividend distributions without preference. (As amended May 28, 1935, c. 150, § 2, 49 Stat. 293.)

§ 1427. **Directors; number; classes; appointment and election; vice chairman; fees and expenses; powers and duties.** (a) The management of each Federal Home Loan Bank shall be vested in a board of twelve directors, all of whom shall be citizens of the United States and bona fide residents of the district in which such bank is located.

(b) Four of such directors shall be appointed by the Board and shall hold office for terms of four years; except that the terms of office of the two such directors heretofore appointed shall expire at the end of the calendar years 1936 and 1937, respectively, and the terms of office of the first two such directors hereafter appointed shall expire at the end of the calendar years 1938 and 1939, respectively.

(c) Six of such directors, two of whom shall be known as class A directors, two of whom shall be known as class B directors, and two of whom shall be known as class C directors, shall be elected as provided in subsection (e), and shall hold office for terms of two years; except that the terms of office of the directors heretofore elected or appointed shall expire at the end of the terms for which they were elected or appointed.

(d) Two of such directors shall be elected by the members of the Federal Home Loan Bank without regard to classes under rules and regulations to be prescribed by the Board, and shall hold office for terms of two years; except that the term of office of one of the directors first elected under this subsection shall expire at the end of the calendar year 1936. (As amended May 28, 1935, c. 150, § 3 (a), 49 Stat. 294.)

Subsections (d), (e), (f), (g), (h), (i) of this section were amended by Act May 28, 1935, c. 150, § 3 (b), 49 Stat. 294, by relettering them respectively (e), (f), (g), (h), (i), (j).  
Amendment of May 28, 1935, becomes effective Jan 1, 1936.

§ 1428a. **Federal Savings and Loan Advisory Council; creation; composition and duties.** There is created a Federal Savings and Loan Advisory Council, which shall consist of one member for each Federal Home Loan Bank district to be elected annually by the board of directors of the Federal Home Loan Bank in such district and six members to be appointed annually by the Board. Each such elected member shall be a resident of the district for which he is elected. All members of the Council shall serve without compensation, but shall be entitled to reimbursement from the Board for traveling expenses incurred in attendance at meetings of such Council. The Council shall meet at Washington, District of Columbia, at least twice a year and oftener if requested by the Board. The Council may select its chairman, vice chairman, and secretary, and adopt methods of procedure, and shall have power—

(1) To confer with the Board and board of trustees of the Federal Savings and Loan Insurance Corporation on general business conditions, and on special conditions affecting the Federal Home Loan Banks and their members and such Corporation.

(2) To request information, and to make recommendations, with respect to matters within the jurisdiction of the Board and the board of trustees of such Corporation. (July 22, 1932, c. 522, § 8a, as added May 28, 1935, c. 150, § 4, 49 Stat. 294.)

§ 1430. **Advances.** (a) **Authorization to make; limitation on amount.** Each Federal Home Loan Bank is authorized to make advances to its members upon

the security of home mortgages, or obligations of the United States, or obligations fully guaranteed by the United States, subject to such regulations, restrictions, and limitations as the Board may prescribe. Any such advance shall be subject to the following limitations as to amount:

(1) If secured by a mortgage insured under the provisions of sections 1707 to 1715 of this title, the advance may be for an amount not in excess of 90 per centum of the unpaid principal of the mortgage loan.

(2) If secured by a home mortgage given in respect of an amortized home mortgage loan which was for an original term of six years or more, or in cases where shares of stock, which are pledged as security for such loan, mature in a period of six years or more, the advance may be for an amount not in excess of 65 per centum of the unpaid principal of the home mortgage loan; but in no case shall the amount of the advance exceed 60 per centum of the value of the real estate securing the home mortgage loan.

(3) If secured by a home mortgage given in respect of any other home mortgage loan, the advance shall not be for an amount in excess of 50 per centum of the unpaid principal of the home mortgage loan; but in no case shall the amount of such advance exceed 40 per centum of the value of the real estate securing the home mortgage loan.

(4) If secured by obligations of the United States, or obligations fully guaranteed by the United States, the advance shall not be for an amount in excess of the face value of such obligations.

(b) **Home mortgages as security.** No home mortgage shall be accepted as collateral security for an advance by a Federal Home Loan Bank if, at the time such advance is made (1) the home mortgage loan secured by it has more than twenty years to run to maturity, or (2) the home mortgage exceeds \$20,000, or (3) \* \* \* (As amended May 28, 1935, c. 150, §§ 5, 6, 49 Stat. 294.)

§ 1430b. **Advances to nonmember mortgagee; terms and conditions.** Each Federal Home Loan Bank is authorized to make advances to nonmember mortgagees approved under sections 1707 to 1715 of this title. Such mortgagees must be chartered institutions having succession and subject to the inspection and supervision of some governmental agency, and whose principal activity in the mortgage field must consist of lending their own funds. Such advances shall not be subject to the other provisions and restrictions of this chapter, but shall be made upon the security of insured mortgages, insured under sections 1707 to 1715 of this title. Advances made under the terms of this section shall be at such rates of interest and upon such terms and conditions as shall be determined by the Federal Home Loan Bank Board, but no advance may be for an amount in excess of 90 per centum of the unpaid principal of the mortgage loan given as security. (July 22, 1932, c. 522, § 10b, as added May 25, 1935, c. 150, § 7, 49 Stat. 295.)

## § 1431. Powers and duties of banks.

"conditions" in lines 6 and 7 of subsection (f) should be "conditions."

§ 1433. **Exemption from taxation; obligation acceptable as credit on debt of home owner.** Any and all notes, debentures, bonds, and other such obligations issued by any bank, and consolidated Federal Home Loan Bank bonds and debentures, shall be exempt both as to principal and interest from all taxation (except surtaxes, estate, inheritance, and gift taxes) now or hereafter imposed by the United States, by any Territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority. \* \* \* (As amended May 28, 1935, c. 150, § 8, 49 Stat. 295.)

§ 1439. **Officers and employees; appointment; compensation; receipts; deposit and withdrawal for expenses, salaries, etc.** \* \* \* The receipts of the Board derived from assessments upon the Federal Home Loan Banks and from other sources (except re-

ceipts from the sale of consolidated Federal Home Loan Bank bonds and debentures issued under section 1431) shall be deposited in the Treasury of the United States, and may be from time to time withdrawn therefrom to defray the expenses of the Board, and the salaries of its members and employees, whose employment, compensation, leave, and expenses shall be governed solely by the provisions of this chapter, specific amendments thereof, and rules and regulations of the Board not inconsistent therewith. (As amended May 28, 1935, c. 150, § 9, 49 Stat. 295.)

The amendment of May 28, 1935, added the above sentence at the end of the section

## Chapter 12.—HOME OWNERS' LOAN ACT OF 1933

### § 1462. Definitions.

(c) The term "home mortgage" means a first mortgage on real estate in fee simple or on a leasehold (1) under a lease for not less than ninety-nine years which is renewable, or (2) under a lease having a period of not less than fifty years to run from the date the mortgage was executed, upon which there is located a dwelling or dwellings for not more than four families, which is used in whole or in part by the owner as a home or held by him as his homestead, and which has a value of not to exceed \$20,000; and the term "first mortgage" includes such classes of first liens as are commonly given to secure advances on real estate under the laws of the State in which the real estate is located, together with the credit instruments, if any, secured thereby. (As amended May 28, 1935, c. 150, § 10, 49 Stat. 296.)

### § 1463. Home owners' loan corporation.

(c) Bond issued by corporation authorized; interest and principal guaranteed by United States; exemption from taxation. In order to provide for applications filed before May 28, 1935, for applications filed within thirty days thereafter, and for carrying out the other purposes of this section, the Corporation is authorized to issue bonds in an aggregate amount not to exceed \$4,750,000,000, which may be exchanged as hereinafter provided, or which may be sold by the Corporation to obtain funds for carrying out the purposes of this section or for the redemption of any of its outstanding bonds; and the Corporation is further authorized to increase its total bond issue for the purpose of retiring its outstanding bonds by an amount equal to the amount of the bonds to be so retired (except bonds retired from payments of principal on loans), such retirement to be at maturity or by call or purchase or exchange or any method prescribed by the Board with the approval of the Secretary of the Treasury: *Provided*, That no bonds issued under this subsection, as amended, shall have a maturity date later than 1952. \* \* \*

(d) Exchange of bonds for mortgages; amortization of mortgages; interest rates. \* \* \* As used in this subsection, the term "real estate" includes only real estate held in fee simple or on a leasehold (1) under a lease for not less than ninety-nine years which is renewable, or (2) under a lease having a period of not less than fifty years to run from the date the mortgage was executed, upon which there is located a dwelling or dwellings for not more than four families, which is used in whole or in part by the owner as a home or held by him as his homestead, and which has a value of not to exceed \$20,000. No discrimination shall be made under this chapter against any home mortgage by reason of the fact that the real estate securing such mortgage is located in a municipality, county, or taxing district which is in default upon any of its obligations.

For the purposes of this chapter, levies of assessments upon real property, made by any special district organized in any State for public improvements, shall be treated as general-tax levies are treated. The Board shall determine the reasonableness of the total annual burden of taxes and assessments of all kinds upon any property offered as security for the

payment of a loan made by the Corporation and the effect of the total levies upon the loanable value of such property, but no deduction shall be made from the loanable value of any property for levies not due at the time of making such loan in any instance where the total annual taxes and assessments borne by the said property for all purposes does not exceed a sum which, in the discretion of the Board, is a reasonable annual tax burden for such property.

(h) Appraisal rules. \* \* \*: *Provided*, That no person shall be allowed to act as appraiser if he is in the employ of any company holding a loan on the property, or if he is interested in the subject matter of the loan.

(j) Officers and employees; compensation; free use of mails. \* \* \* No person shall be appointed or retained as an officer, employee, agent, or attorney, at a fixed salary, in any regional or State office of the Corporation who is an officer or director of any firm, corporation, or association engaged in lending money on real estate; nor shall any person be appointed or retained as an officer, employee, agent, or attorney in any State or district office of the Corporation, who has not been a bona fide resident of the State served by such office for a period of at least one year immediately preceding the date of his appointment.

(i) When mortgagor must be in default. \* \* \* *Provided*, That the foregoing limitation shall not apply in any case in which it is specifically shown to the satisfaction of the Corporation that a default after such date was due to unemployment or to economic conditions or misfortune beyond the control of the applicant.

(m) Advances for rehabilitation, modernization, etc., of homes. \* \* \* Not to exceed \$400,000,000 of the proceeds derived from the sale of bonds of the Corporation shall be used in making cash advances to provide for necessary maintenance and necessary repairs and for the rehabilitation, modernization, rebuilding, and enlargement of real estate securing the home mortgages and other obligations and liens acquired by the Corporation under this section.

(n) Purchase of obligations of other banks and associations. The Corporation is authorized to purchase Federal Home Loan Bank bonds, debentures, or notes, or consolidated Federal Home Loan Bank bonds or debentures. The Corporation is also authorized to purchase full-paid-income shares of Federal Savings and Loan Associations after the funds made available to the Secretary of the Treasury for the purchase of such shares have been exhausted. Such purchases of shares shall be on the same terms and conditions as have been heretofore authorized by law for the purchase of such shares by the Secretary of the Treasury: *Provided*, That the total amount of such shares in any one association held by the Secretary of the Treasury and the Corporation shall not exceed the total amount of such shares heretofore authorized to be held by the Secretary of the Treasury in any one association. The Corporation is also authorized to purchase shares in any institution which is (1) a member of a Federal Home Loan Bank, or (2) whose accounts are insured under sections 1724 to 1730 of this title, if the institution is eligible for insurance under such title; and to make deposits and purchase certificates of deposit and investment certificates in any such institution. Of the total authorized bond issue of the Corporation \$300,000,000 shall be available for the purposes of this subsection, without discrimination in favor of Federally chartered associations, and bonds of the Corporation not exceeding such amount may be sold for the purposes of this subsection. (As amended May 28, 1935, c. 150, §§ 10-17 (a), 49 Stat. 296, 297.)

Subsection (m) is amended by Act May 28, 1935, c. 150, § 16, 49 Stat. 297, by striking out "\$300,000,000" and inserting in lieu thereof "\$400,000,000."

### § 1463b. Purchase of obligation of, or loans to, Federal Home Loan Banks. [Repealed.]

This section (Act Apr. 27, 1934, c. 168, § 9, 48 Stat. 646), was repealed by Act of May 28, 1935, c. 150, § 17(b), 49 Stat. 297

## § 1464. Federal Savings and Loan Associations.

(c) Loans; security required; investment of assets. \* \* \*: *And provided further*, That any such association which is converted from a State-chartered institution may continue to make loans in the territory in which it made loans while operating under State charter. (As amended May 28, 1935, c. 150, § 18, 49 Stat. 297.)

§ 1465. Encouragement of saving and home financing. \* \* \* For the purposes of this section the Secretary of the Treasury is authorized and directed to allocate and make immediately available to the Board, out of the funds appropriated pursuant to section 1464 (g), the sum of \$700,000. Such sum shall be in addition to the funds appropriated pursuant to this section, and shall be subject to the call of the Board and shall remain available until expended. The sums appropriated and made available pursuant to this section shall be used impartially in the promotion and development of local thrift and home-financing institutions, whether State or Federally chartered. (As amended May 28, 1935, c. 150, § 19, 49 Stat. 297.)

## § 1467. Penalties.

(d) The provisions of sections 73, 74, 76, 82, 83, 88, 91, 202, 203, and 207 of Title 18, insofar as applicable, are extended to apply to the Home Owners' Loan Corporation, its contracts or agreements, and an association under this chapter which, for the purposes therein shall be held to include advances, loans, discounts, and purchase or repurchase agreements; extensions and renewals thereof; and acceptances, releases, and substitutions of security therefor.

(e) No person, partnership, association, or corporation shall, directly or indirectly, solicit, contract for, charge, or receive, or attempt to solicit, contract for, charge, or receive, from any person applying to the Corporation for a loan, (1) any fee, charge, or other consideration, whether bond or cash, except ordinary fees authorized and required by the Corporation for services actually rendered for examination and perfection of title, appraisal, and like necessary services, or (2) any moneys, check, note, or other form of obligation, representing payment of any difference which may exist between the market value and the par value of the bonds of the Home Owners' Loan Corporation. Any person, partnership, association, or corporation violating the provisions of this subsection shall, upon conviction thereof, be fined not more than \$5,000, or imprisoned not more than two years, or both. (As amended May 28, 1935, c. 150, §§ 20, 21, 49 Stat. 298.)

## Chapter 13.—NATIONAL HOUSING

## TITLE I.—HOUSING RENOVATION AND MODERNIZATION

§ 1702. Creation of Federal Housing Administration. The President is authorized to create a Federal housing Administration. \* \* \* All such compensation, expenses, and allowances shall be paid out of funds made available by this chapter. The Administrator shall, in carrying out the provisions of this title and titles II and III, be authorized, in his official capacity, to sue and be sued in any court of competent jurisdiction, State or Federal. (As amended Aug. 23, 1935, c. 614, § 344 (a), 49 Stat. 722.)

§ 1703. Insurance of financial institutions. The Administrator is authorized and empowered, upon such terms and conditions as he may prescribe, to insure banks, trust companies, personal finance companies, mortgage companies, building and loan associations, installment lending companies, and other such financial institutions, which are approved by him as eligible for credit insurance, against losses which they may sustain as a result of loans and advances of credit, and purchases of obligations representing loans

and advances of credit, made by them subsequent to June 27, 1934, and prior to April 1, 1936, or such earlier date as the President may fix by proclamation, for the purpose of financing alterations, repairs, and improvements upon real property and the purchase and installation of equipment and machinery on real property. In no case shall the insurance granted by the Administrator under this section to any such financial institution exceed 20 per centum of the total amount of the loans, advances of credit, and purchases made by such financial institution for such purpose; and the total liability incurred by the Administrator for such insurance shall in no case exceed in the aggregate \$200,000,000. No insurance shall be granted under this section to any such financial institution with respect to any obligation representing any such loan, advance of credit, or purchase by it (1) unless the obligation bears such interest, has such maturity, and contains such other terms, conditions, and restrictions, as the Administrator shall prescribe; and (2) unless the amount of such loan, advance of credit, or purchase is not in excess of \$2,000, except that in the case of any such loan, advance of credit, or purchase made for the purpose of such financing with respect to real property improved by or to be converted into apartment or multiple family houses, hotels, office, business or other commercial buildings, hospitals, orphanages, colleges, schools, or manufacturing or industrial plants, such insurance may be granted if the amount of the loan, advance of credit, or purchase is not in excess of \$50,000. (As amended May 28, 1935, c. 150, § 28 (b), 49 Stat. 299; Aug. 23, 1935, c. 614, § 344 (b), 49 Stat. 722.)

## TITLE II.—MUTUAL MORTGAGE INSURANCE

§ 1709. Insurance of mortgages. (a) The Administrator is authorized, upon application by the mortgagee, to insure as hereinafter provided any mortgage offered to him within one year from the date of its execution which is eligible for insurance as hereinafter provided, and, upon such terms as the Administrator may prescribe, to make commitments for the insuring of such mortgages prior to the date of their execution or disbursement thereon: *Provided*, That except with the approval of the President, (1) the aggregate principal obligation of all mortgages on property and low-cost housing property and projects existing on June 27, 1934, and insured under this title shall not exceed \$1,000,000,000, and (2) the insurance of mortgages on property and low-cost housing projects constructed after the passage of this chapter shall be limited to a similar amount.

(c) The Administrator is authorized to fix a premium charge for the insurance of mortgages under this section (to be determined in accordance with the risk involved) which in no case shall be less than one-half of 1 per centum nor more than 1 per centum per annum of the original face value of the mortgage, and which shall be payable annually in advance by the mortgagee. If the Administrator finds upon the presentation of a mortgage for insurance and the tender of the initial premium charge that the mortgage complies with the provisions of this section, such mortgage may be accepted for insurance by endorsement or otherwise as the Administrator may prescribe; but no mortgage shall be accepted for insurance under this section unless the Administrator finds that the project with respect to which the mortgage is executed is economically sound. In the event that the principal obligation of any mortgage accepted for insurance under this section is paid in full prior to the maturity date specified in the mortgage, the Administrator is further authorized in his discretion to require the payment by the mortgagor of a premium charge in such amount as the Administrator determines to be equitable, but not in excess of the aggregate amount of the premium charges that the mortgagee would otherwise have been required to pay if the mortgage had continued to be insured under this section until such maturity date. (As

amended May 28, 1935, c. 150, § 29 (a), 49 Stat. 299; Aug. 23, 1935, c. 614, § 844 (c), 49 Stat. 722.)

The amendment of May 28, 1935, c. 150, added last sentence at the end of subsection (c).

The amendment of Aug. 23, 1935, c. 614, inserted "property and" in subsection (a), clause (1).

§ 1710. **Payment of insurance.** (a) \* \* \* For the purposes of this subsection, the value of the mortgage shall be determined, in accordance with rules and regulations prescribed by the Administrator, by adding to the amount of the principal of the mortgage which is unpaid on the date of such delivery, (1) interest on such unpaid principal from the date foreclosure proceedings were instituted or the property was otherwise acquired as provided in this subsection to the date of such delivery at the rate provided for in the debentures issued to the mortgagee, less any amount received on account of interest accruing on such unpaid principal between such dates, and (2) the amount of all payments which have been made by the mortgagee for taxes and insurance on the property mortgaged. (As amended May 28, 1935, c. 150, § 29 (c), 49 Stat. 300.)

The amendment of May 28, 1935, amended the last sentence of subsection (a) of this section to read as above

§ 1711. **Classification of mortgages and reinsurance fund.**

(f) In the event that any mortgagee under an insured mortgage forecloses on the mortgaged property but does not convey such property to the Administrator in accordance with section 1710, or in the event that the mortgagor pays the obligation under the mortgage in full prior to the maturity thereof, the obligation to pay the annual premium charge for insurance shall, upon due notice to the Administrator, cease, and all rights of the mortgagee and the mortgagor under section 1710 shall likewise terminate. Thereupon the mortgagor shall be entitled to receive a share of the credit balance of the group account of the group to which the mortgage has been assigned, in such amount as the Administrator shall determine to be equitable and not inconsistent with the preservation of the solvency of the group account and of the Fund. (As amended May 28, 1935, c. 150, § 29 (b), 49 Stat. 300.)

§ 1713. **Low-cost housing insurance.** \* \* \* *Provided*, That the insurance with respect to any low-cost housing property or project shall not exceed \$10,000,000. (As amended Aug. 23, 1935, c. 614, § 344 (d), 49 Stat. 722.)

### TITLE III.—NATIONAL MORTGAGE ASSOCIATIONS

§ 1716. **Creation and powers of national mortgage associations.**

(d) No association shall transact any business except such as is incidental to its organization until it has been authorized to do so by the Administrator. Each such association shall have a capital stock of a par value of not less than \$2,000,000, and no authorization to commence business shall be granted by the Administrator to any such association until he is satisfied that such capital stock has been subscribed for at not less than par and paid in full in cash or Government securities at their par value. (As amended May 28, 1935, c. 150, § 30, 49 Stat. 300.)

§ 1717. **Obligations of national mortgage associations.** Each national mortgage association is authorized to issue and have outstanding at any time notes, bonds, debentures, or other such obligations in an aggregate amount not to exceed (1) twelve times the aggregate par value of its outstanding capital stock, and in no event to exceed (2) the current face value of mortgages held by it and insured under the pro-

visions of sections 1707 to 1715 of this chapter, plus the amount of its cash on hand and on deposit and the amount of its investments in bonds or obligations of, or guaranteed as to principal and interest by, the United States. No national mortgage association shall borrow money except through the issuance of such notes, bonds, debentures, or other obligations, except with the approval of the Administrator and under such rules and regulations as he shall prescribe. (As amended May 28, 1935, c. 150, § 31, 49 Stat. 300.)

### TITLE IV.—INSURANCE OF SAVINGS AND LOAN ACCOUNTS

§ 1725. **Creation of Federal savings and loan insurance corporation**

(c) \* \* \*  
(5) \* \* \*

The Corporation shall be entitled to the free use of the United States mails for its official business in the same manner as the executive departments of the Government, and shall determine its necessary expenditures under this chapter and the manner in which the same shall be incurred, allowed, and paid, without regard to the provisions of any other law governing the expenditure of public funds. (As amended May 28, 1935, c. 150, § 22, 49 Stat. 298.)

The amendment of May 28, 1935, added above sentence at the end of par. (5) of subsection (c).

§ 1726. **Insurance of accounts and eligibility provisions.**

(b) \* \* \* will provide adequate reserves satisfactory to the Corporation, to be established in accordance with regulations made by the Corporation, before paying dividends to its insured members; but such regulations shall require the building up of reserves to 5 per centum of all insured accounts within a reasonable period, not exceeding twenty years, and shall prohibit the payment of dividends from such reserves, or the payment of any dividends if any losses are chargeable to such reserves: *Provided*, That for any year dividends may be declared and paid when losses are chargeable to such reserves if the declaration of such dividends in such case is approved by the Corporation.

(d) Any applicant which applies for insurance under this title after the first year of the operation of the Corporation shall pay an admission fee based upon the reserve fund of the Corporation, which, in the judgment of the Corporation, is an equitable contribution. (As amended May 28, 1935, c. 150, §§ 23, 24, 49 Stat. 298.)

§ 1727. **Premiums on insurance.** (a) Each institution whose application for insurance is approved by the Corporation shall pay to the Corporation, in such manner as it shall prescribe, a premium charge for such insurance equal to one-eighth of 1 per centum of the total amount of all accounts of the insured members of such institution plus any creditor obligations of such institution. \* \* \*

(c) Each insured institution which has paid a premium charge in excess of one-eighth of 1 per centum of the total amount of the accounts of its insured members and its creditor obligations shall be credited on its future premiums with an amount equal to the total amount of such excess. (As amended May 28, 1935, c. 150, § 25 (b), 49 Stat. 299.)

§ 1729. **Liquidation of insured institutions.**

(b) In the event that a Federal savings and loan association is in default, the Corporation shall be appointed as conservator or receiver and is authorized as such (1) to take over the assets of and operate such association, (2) to take such action as may be necessary to put it in a sound and solvent condition,

(3) to merge it with another insured institution, (4) to organize a new Federal savings and loan association to take over its assets, or (5) to proceed to liquidate its assets in an orderly manner, whichever shall appear to be to the best interests of the insured members of the association in default; and in any event the Corporation shall pay the insurance as provided in section 1728 and all valid credit obligations of such association. The surrender and transfer to the Corporation of an insured account in any such association which is in default shall subrogate the Corporation with respect to such insured account, but shall not affect any right which the insured member may have in the uninsured portion of his account or any right which he may have to participate in the

distribution of the net proceeds remaining from the disposition of the assets of such association.

\* \* \* \* \*

(f) In order to prevent a default in an insured institution or in order to restore an insured institution in default to normal operation as an insured institution, the Corporation is authorized, in its discretion, to make loans to, purchase the assets of, or make a contribution to, an insured institution or an insured institution in default; but no contribution shall be made to any such institution in an amount in excess of that which the Corporation finds to be reasonably necessary to save the expense of liquidating such institution. (As amended May 28, 1935, c. 150, §§ 26, 27, 49 Stat. 299.)

## **TITLE 13.—CENSUS**

### **Chapter 1.—BUREAU OF THE CENSUS**

#### **§ 3. Duties as to Official Register.**

Preparation and publication of Official Register by Civil Service Commission, see section 652a of Title 5.

Page 91





## TITLE 14.—COAST GUARD

### Chapter 1.—GENERAL PROVISIONS

#### § 33. Contracts for rations.

"Jan 25, 1915" in citation should be "Jan 28, 1915."

### Chapter 2.—COAST GUARD CUTTERS

§ 64. Ensigns and pennants for Coast Guard cutters, etc.; wrongful display by others; penalty. (a) Coast Guard vessels shall be distinguished from other vessels by an ensign and pennant, of such design as the President shall prescribe, the same to be flown as circumstances require. If any vessel or boat, not employed in the service of the customs, shall, within the jurisdiction of the United States, without authority, carry or hoist any pennant or ensign prescribed for, or intended to resemble any pennant or ensign prescribed for, Coast Guard vessels, the master of the vessel so offending shall be liable to a fine of

not less than \$1,000 and not more than \$5,000, or to imprisonment for not less than six months and not more than two years, or to both such fine and imprisonment.

(b) For the purposes of this section, any place in the United States or within the customs waters of the United States as defined in chapter 5 of Title 19 shall be deemed within the jurisdiction of the United States. (As amended Aug. 5, 1935, c. 438, Title III. § 308, 49 Stat 528)

### Chapter 3.—COAST GUARD STATIONS

§ 91. General duties of commandant as regards stations.

"June 10, 1924" in citation should be "June 10, 1921"

§ 102. Promotion to fill vacancy of district commander and of keeper.

"1946" in citation should be "1926".



## TITLE 15.—COMMERCE AND TRADE

### Chapter 1.—MONOPOLIES AND COMBINATIONS IN RESTRAINT OF TRADE

§ 19. Interlocking directors and officers. No private banker or director, officer, or employee of any member bank of the Federal Reserve System or any branch thereof shall be at the same time a director, officer, or employee of any other bank, banking association, savings bank, or trust company organized under sections 21 to 67 of Title 12 or organized under the laws of any State or of the District of Columbia, or any branch thereof, except that the Board of Governors of the Federal Reserve System may by regulation permit such service as a director, officer, or employee of not more than one other such institution or branch thereof; but the foregoing prohibition shall not apply in the case of any one or more of the following or any branch thereof:

(1) A bank, banking association, savings bank, or trust company, more than 90 per centum of the stock of which is owned directly or indirectly by the United States or by any corporation of which the United States directly or indirectly owns more than 90 per centum of the stock.

(2) A bank, banking association, savings bank, or trust company which has been placed formally in liquidation or which is in the hands of a receiver, conservator, or other official exercising similar functions.

(3) A corporation, principally engaged in international or foreign banking or banking in a dependency or insular possession of the United States which has entered into an agreement with the Board of Governors of the Federal Reserve System pursuant to sections 601 to 604 of Title 12.

(4) A bank, banking association, savings bank, or trust company, more than 50 per centum of the common stock of which is owned directly or indirectly by persons who own directly or indirectly more than 50 per centum of the common stock of such member bank.

(5) A bank, banking association, savings bank, or trust company not located and having no branch in the same city, town, or village as that in which such member bank or any branch thereof is located, or in any city, town, or village contiguous or adjacent thereto.

(6) A bank, banking association, savings bank, or trust company not engaged in a class or classes of business in which such member bank is engaged.

(7) A mutual savings bank having no capital stock.

Until February 1, 1939, nothing in this section shall prohibit any director, officer, or employee of any member bank of the Federal Reserve System, or any branch thereof, who is lawfully serving at the same time as a private banker or as a director, officer, or employee of any other bank, banking association, savings bank, or trust company, or any branch thereof, on the date of enactment of the Banking Act of 1935, from continuing such service.

The Board of Governors of the Federal Reserve System is authorized and directed to enforce compliance with this section, and to prescribe such rules and regulations as it deems necessary for that purpose. (As amended Aug. 23, 1935, c. 614, § 329, 49 Stat. 718.)

\* \* \* \*

Act Aug. 23, 1935 c. 614, substituted above matter for first three paragraphs of section

§ 19a. Same; corporations or partnerships making loans on securities. [Repealed.]

This section (Oct. 15, 1914, c. 323, § 8a, as added June 16, 1933, c. 88, § 33, 48 Stat. 194), is repealed by Act Aug. 23, 1935, c. 614, § 329, 49 Stat. 717.

### Chapter 2A.—SECURITIES ACT OF 1933

#### DOMESTIC SECURITIES

§ 77c. Exempted securities. (a) \* \* \*

(6) Any security issued by a common or contract carrier, which is subject to the provisions of section 20a of Title 49;

\* \* \* \*

(b) The Commission may from time to time by its rules and regulations, and subject to such terms and conditions as may be prescribed therein, add any class of securities to the securities exempted as provided in this section, if it finds that the enforcement of this subchapter with respect to such securities is not necessary in the public interest and for the protection of investors by reason of the small amount involved or the limited character of the public offering; but no issue of securities shall be exempted under this subsection where the aggregate amount at which such issue is offered to the public exceeds \$100,000. (As amended Aug. 9, 1935, c. 498, § 1 [214], 49 Stat. 557.)

The Act Aug. 9, 1935, c. 498, affected paragraph (6) of subsection (a).

### Chapter 2C.—CONTROL OF PUBLIC UTILITY HOLDING COMPANIES

- |        |   |
|--------|---|
| Sec.   |   |
| 79.    | Short title.  |
| 79a.   | Necessity for control of holding companies.   |
| 79b.   | Definitions; application of chapter.  |
| 79c.   | Exemptions regarding holding companies, subsidiary companies, and affiliates; power of Commission to make |
| 79d.   | Transactions by unregistered holding companies.   |
| 79e.   | Registration of holding companies, registration statement, contents                                       |
| 79f.   | Unlawful transactions by registered companies.  |
| 79g.   | Declarations by registered companies in respect to security transactions                                  |
| 79h.   | Acquiring interest in electric and gas companies serving same territory.                                  |
| 79i.   | Acquisition of securities and utility assets and other interests  |
| 79j.   | Approval of acquisition of securities and utility assets and other interests                              |
| 79k.   | Simplification of holding company systems   |
| 79l.   | Intercompany and other transactions relating to registered companies                                      |
| 79m.   | Service, sales, and construction contracts.   |
| 79n.   | Periodic and other reports.   |
| 79o.   | Accounts and records  |
| 79p.   | Misleading statements, penalty, rights and remedies additional to those existing under other laws         |
| 79q.   | Officers and directors.   |
| 79r.   | Investigations, injunctions, and enforcement of law.  |
| 79s.   | Hearings before Commission  |
| 79t.   | Rules, regulations, and orders  |
| 79u.   | Effect on other laws.   |
| 79v.   | Access of public to information filed with Commission; unlawful disclosure or use of information.         |
| 79w.   | Annual reports of Commission.   |
| 79x.   | Court review of orders  |
| 79y.   | Jurisdiction of offenses and suits.   |
| 79z.   | Validity of contracts   |
| 79z-1. | Liability of controlling; preventing compliance with law  |
| 79z-2. | Representation of guaranty or recommendation by United States   |
| 79z-3. | Penalties   |
| 79z-4. | Study of public-utility and investment companies; report and recommendation.                              |
| 79z-5. | Employees of Commission, appointment and compensation.  |
| 79z-6. | Separability clause.  |

§ 79. Short title of chapter. This chapter may be cited as the "Public Utility Holding Company Act of 1935." (Aug. 26, 1935, c. 687, Title I, § 33, 49 Stat. 838.)

**§ 79a. Necessity for control of holding companies.**

(a) Public-utility holding companies and their subsidiary companies are affected with a national public interest in that, among other things, (1) their securities are widely marketed and distributed by means of the mails and instrumentalities of interstate commerce and are sold to a large number of investors in different States; (2) their service, sales, construction, and other contracts and arrangements are often made and performed by means of the mails and instrumentalities of interstate commerce; (3) their subsidiary public-utility companies often sell and transport gas and electric energy by the use of means and instrumentalities of interstate commerce; (4) their practices in respect of and control over subsidiary companies often materially affect the interstate commerce in which those companies engage; (5) their activities extending over many States are not susceptible of effective control by any State and make difficult, if not impossible, effective State regulation of public-utility companies.

(b) Upon the basis of facts disclosed by the reports of the Federal Trade Commission made pursuant to S. Res. 83 (Seventieth Congress, first session), the reports of the Committee on Interstate and Foreign Commerce, House of Representatives, made pursuant to H. Res. 59 (Seventy-second Congress, first session) and H. J. Res. 572 (Seventy-second Congress, second session) and otherwise disclosed and ascertained, it is hereby declared that the national public interest, the interest of investors in the securities of holding companies and their subsidiary companies and affiliates, and the interest of consumers of electric energy and natural and manufactured gas, are or may be adversely affected—

(1) when such investors cannot obtain the information necessary to appraise the financial position or earning power of the issuers, because of the absence of uniform standard accounts; when such securities are issued without the approval or consent of the States having jurisdiction over subsidiary public-utility companies; when such securities are issued upon the basis of fictitious or unsound asset values having no fair relation to the sums invested in or the earning capacity of the properties and upon the basis of paper profits from intercompany transactions, or in anticipation of excessive revenues from subsidiary public-utility companies; when such securities are issued by a subsidiary public-utility company under circumstances which subject such company to the burden of supporting an overcapitalized structure and tend to prevent voluntary rate reductions;

(2) when subsidiary public-utility companies are subjected to excessive charges for services, construction work, equipment, and materials, or enter into transactions in which evils result from an absence of arm's-length bargaining or from restraint of free and independent competition; when service, management, construction, and other contracts involve the allocation of charges among subsidiary public-utility companies in different States so as to present problems of regulation which cannot be dealt with effectively by the States;

(3) when control of subsidiary public-utility companies affects the accounting practices and rate, dividend, and other policies of such companies so as to complicate and obstruct State regulation of such companies, or when control of such companies is exerted through disproportionately small investment;

(4) when the growth and extension of holding companies bears no relation to economy of management and operation or the integration and coordination of related operating properties; or

(5) when in any other respect there is lack of economy of management and operation of public-utility companies or lack of efficiency and adequacy of service rendered by such companies, or lack of effective public regulation, or lack of economies in the raising of capital.

(c) When abuses of the character above enumerated become persistent and wide-spread the holding company becomes an agency which, unless regulated,

is injurious to investors, consumers, and the general public; and it is hereby declared to be the policy of this title, in accordance with which policy all the provisions of this title shall be interpreted, to meet the problems and eliminate the evils as enumerated in this section, connected with public-utility holding companies which are engaged in interstate commerce or in activities which directly affect or burden interstate commerce; and for the purpose of effectuating such policy to compel the simplification of public-utility holding-company systems and the elimination therefrom of properties detrimental to the proper functioning of such systems, and to provide as soon as practicable for the elimination of public-utility holding companies except as otherwise expressly provided in this title. (Aug 26, 1935, c. 687, Title I, § 1. 49 Stat. 803.)

**§ 79b. Definitions; application of chapter—(a) Definitions.** When used in this chapter, unless the context otherwise requires—

(1) "Person" means an individual or company.

(2) "Company" means a corporation, a partnership, an association, a joint-stock company, a business trust, or an organized group of persons, whether incorporated or not; or any receiver, trustee, or other liquidating agent of any of the foregoing in his capacity as such.

(3) "Electric utility company" means any company which owns or operates facilities used for the generation, transmission, or distribution of electric energy for sale, other than sale to tenants or employees of the company operating such facilities for their own use and not for resale. The Commission, upon application, shall by order declare a company operating any such facilities not to be an electric utility company if the Commission finds that (A) such company is primarily engaged in one or more businesses other than the business of an electric utility company, and by reason of the small amount of electric energy sold by such company it is not necessary in the public interest or for the protection of investors or consumers that such company be considered an electric utility company for the purposes of this chapter, or (B) such company is one operating within a single State, and substantially all of its outstanding securities are owned directly or indirectly by another company to which such operating company sells or furnishes electric energy which it generates; such other company uses and does not resell such electric energy, is engaged primarily in manufacturing (other than the manufacturing of electric energy or gas) and is not controlled by any other company; and by reason of the small amount of electric energy sold or furnished by such operating company to other persons it is not necessary in the public interest or for the protection of investors or consumers that it be considered an electric utility company for the purposes of this chapter. The filing of an application hereunder in good faith shall exempt such company (and the owner of the facilities operated by such company) from the application of this paragraph until the Commission has acted upon such application. As a condition to the entry of any such order, and as a part thereof, the Commission may require application to be made periodically for a renewal of such order, and may require the filing of such periodic or special reports regarding the business of the company as the Commission may find necessary or appropriate to insure that such company continues to be entitled to such exemption during the period for which such order is effective. The Commission, upon its own motion or upon application, shall revoke such order whenever it finds that the conditions specified in clause (A) or (B) are not satisfied in the case of such company. Any action of the Commission under the preceding sentence shall be by order. Application under this paragraph may be made by the company in respect of which the order is to be issued or by the owner of the facilities operated by such company. Any order issued under this paragraph shall apply equally to such company and such owner. The Commission may by rules or reg-

ulations conditionally or unconditionally provide that any specified class or classes of companies which it determines to satisfy the conditions specified in clause (A) or (B), and the owners of the facilities operated by such companies, shall not be deemed electric utility companies within the meaning of this paragraph.

(4) "Gas utility company" means any company which owns or operates facilities used for the distribution at retail (other than distribution only in enclosed portable containers, or distribution to tenants or employees of the company operating such facilities for their own use and not for resale) of natural or manufactured gas for heat, light, or power. The Commission, upon application, shall by order declare a company operating any such facilities not to be a gas utility company if the Commission finds that (A) such company is primarily engaged in one or more businesses other than the business of a gas utility company, and (B) by reason of the small amount of natural or manufactured gas distributed at retail by such company it is not necessary in the public interest or for the protection of investors or consumers that such company be considered a gas utility company for the purposes of this chapter. The filing of an application hereunder in good faith shall exempt such company (and the owner of the facilities operated by such company) from the application of this paragraph until the Commission has acted upon such application. As a condition to the entry of any such order, and as a part thereof, the Commission may require application to be made periodically for a renewal of such order, and may require the filing of such periodic or special reports regarding the business of the company as the Commission may find necessary or appropriate to insure that such company continues to be entitled to such exemption during the period for which such order is effective. The Commission, upon its own motion or upon application, shall revoke such order whenever it finds that the conditions specified in clauses (A) and (B) are not satisfied in the case of such company. Any action of the Commission under the preceding sentence shall be by order. Application under this paragraph may be made by the company in respect of which the order is to be issued or by the owner of the facilities operated by such company. Any order issued under this paragraph shall apply equally to such company and such owner. The Commission may by rules or regulations conditionally or unconditionally provide that any specified class or classes of companies which it determines to satisfy the conditions specified in clauses (A) and (B), and the owners of the facilities operated by such companies, shall not be deemed gas utility companies within the meaning of this paragraph.

(5) "Public-utility company" means an electric utility company or a gas utility company.

(6) "Commission" means the Securities and Exchange Commission.

(7) "Holding company" means—

(A) any company which directly or indirectly owns, controls, or holds with power to vote, 10 per centum or more of the outstanding voting securities of a public-utility company or of a company which is a holding company by virtue of this clause or clause (B), unless the Commission, as hereinafter provided, by order declares such company not to be a holding company; and

(B) any person which the Commission determines, after notice and opportunity for hearing, directly or indirectly to exercise (either alone or pursuant to an arrangement or understanding with one or more other persons) such a controlling influence over the management or policies of any public-utility or holding company as to make it necessary or appropriate in the public interest or for the protection of investors or consumers that such person be subject to the obligations, duties, and liabilities imposed in this chapter upon holding companies.

The Commission, upon application, shall by order declare that a company is not a holding company under clause (A) if the Commission finds that the

applicant (i) does not, either alone or pursuant to an arrangement or understanding with one or more other persons, directly or indirectly control a public-utility or holding company either through one or more intermediary persons or by any means or device whatsoever, (ii) is not an intermediary company through which such control is exercised, and (iii) does not, directly or indirectly, exercise (either alone or pursuant to an arrangement or understanding with one or more other persons) such a controlling influence over the management or policies of any public-utility or holding company as to make it necessary or appropriate in the public interest or for the protection of investors or consumers that the applicant be subject to the obligations, duties, and liabilities imposed in this chapter upon holding companies. The filing of an application hereunder in good faith by a company other than a registered holding company shall exempt the applicant from any obligation, duty, or liability imposed in this chapter upon the applicant as a holding company, until the Commission has acted upon such application. Within a reasonable time after the receipt of any application hereunder, the Commission shall enter an order granting, or, after notice and opportunity for hearing, denying or otherwise disposing of, such application. As a condition to the entry of any order granting such application and as a part of any such order, the Commission may require the applicant to apply periodically for a renewal of such order and to do or refrain from doing such acts or things, in respect of exercise of voting rights, control over proxies, designation of officers and directors, existence of interlocking officers, directors and other relationships, and submission of periodic or special reports regarding affiliations or intercorporate relationships of the applicant, as the Commission may find necessary or appropriate to ensure that in the case of the applicant the conditions specified in clauses (i), (ii), and (iii) are satisfied during the period for which such order is effective. The Commission, upon its own motion or upon application of the company affected, shall revoke the order declaring such company not to be a holding company whenever in its judgment any condition specified in clause (i), (ii), or (iii) is not satisfied in the case of such company, or modify the terms of such order whenever in its judgment such modification is necessary to ensure that in the case of such company the conditions specified in clauses (i), (ii), and (iii) are satisfied during the period for which such order is effective. Any action of the Commission under the preceding sentence shall be by order.

(8) "Subsidiary company" of a specified holding company means—

(A) any company 10 per centum or more of the outstanding voting securities of which are directly or indirectly owned, controlled, or held with power to vote, by such holding company (or by a company that is a subsidiary company of such holding company by virtue of this clause or clause (B)), unless the Commission, as hereinafter provided, by order declares such company not to be a subsidiary company of such holding company; and

(B) any person the management or policies of which the Commission, after notice and opportunity for hearing, determines to be subject to a controlling influence, directly or indirectly, by such holding company (either alone or pursuant to an arrangement or understanding with one or more other persons) so as to make it necessary or appropriate in the public interest or for the protection of investors or consumers that such person be subject to the obligations, duties, and liabilities imposed in this chapter upon subsidiary companies of holding companies.

The Commission, upon application, shall by order declare that a company is not a subsidiary company of a specified holding company under clause (A) if the Commission finds that (i) the applicant is not controlled, directly or indirectly, by such holding company (either alone or pursuant to an arrangement or understanding with one or more other persons) either through one or more intermediary persons or by any

means or device whatsoever, (ii) the applicant is not an intermediary company through which such control of another company is exercised, and (iii) the management or policies of the applicant are not subject to a controlling influence, directly or indirectly, by such holding company (either alone or pursuant to an arrangement or understanding with one or more other persons) so as to make it necessary or appropriate in the public interest or for the protection of investors or consumers that the applicant be subject to the obligations, duties, and liabilities imposed in this chapter upon subsidiary companies of holding companies. The filing of an application hereunder in good faith shall exempt the applicant from any obligation, duty, or liability imposed in this chapter upon the applicant as a subsidiary company of such specified holding company until the Commission has acted upon such application. Within a reasonable time after the receipt of any application hereunder, the Commission shall enter an order granting, or, after notice and opportunity for hearing, denying or otherwise disposing of, such application. As a condition to the entry of, and as a part of, any order granting such application, the Commission may require the applicant to apply periodically for a renewal of such order and to file such periodic or special reports regarding the affiliations or intercorporate relationships of the applicant as the Commission may find necessary or appropriate to enable it to determine whether in the case of the applicant the conditions specified in clauses (i), (ii), and (iii) are satisfied during the period for which such order is effective. The Commission, upon its own motion or upon application, shall revoke the order declaring such company not to be a subsidiary company whenever in its judgment any condition specified in clause (i), (ii), or (iii) is not satisfied in the case of such company, or modify the terms of such order whenever in its judgment such modification is necessary to ensure that in the case of such company the conditions specified in clauses (i), (ii), and (iii) are satisfied during the period for which such order is effective. Any action of the Commission under the preceding sentence shall be by order. Any application under this paragraph may be made by the holding company or the company in respect of which the order is to be entered, but as used in this paragraph the term "applicant" means only the company in respect of which the order is to be entered.

(9) "Holding-company system" means any holding company, together with all its subsidiary companies, and all mutual service companies (as defined in paragraph (13) of this subsection) of which such holding company or any subsidiary company thereof is a member company (as defined in paragraph (14) of this subsection).

(10) "Associate company" of a company means any company in the same holding-company system with such company.

(11) "Affiliate" of a specified company means—

(A) any person that directly or indirectly owns, controls, or holds with power to vote, 5 per centum or more of the outstanding voting securities of such specified company;

(B) any company 5 per centum or more of whose outstanding voting securities are owned, controlled, or held with power to vote, directly or indirectly, by such specified company,

(C) any individual who is an officer or director of such specified company, or of any company which is an affiliate thereof under clause (A) of this paragraph; and

(D) any person or class of persons that the Commission determines, after appropriate notice and opportunity for hearing, to stand in such relation to such specified company that there is liable to be such an absence of arm's-length bargaining in transactions between them as to make it necessary or appropriate in the public interest or for the protection of investors or consumers that such person be subject to the obligations, duties, and liabilities imposed in this chapter upon affiliates of a company.

(12) "Registered holding company" means a person whose registration is in effect under section 5.

(13) "Mutual service company" means a company approved as a mutual service company under section 13.

(14) "Member company" means a company which is a member of an association or group of companies mutually served by a mutual service company.

(15) "Director" means any director of a corporation or any individual who performs similar functions in respect of any company.

(16) "Security" means any note, draft, stock, treasury stock, bond, debenture, certificate of interest or participation in any profit-sharing agreement or in any oil, gas, other mineral royalty or lease, any collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate, certificate of deposit for a security, receiver's or trustee's certificate, or, in general, any instrument commonly known as a "security"; or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guaranty of, assumption of liability on, or warrant or right to subscribe to or purchase, any of the foregoing.

(17) "Voting security" means any security presently entitling the owner or holder thereof to vote in the direction or management of the affairs of a company, or any security issued under or pursuant to any trust, agreement, or arrangement whereby a trustee or trustees or agent or agents for the owner or holder of such security are presently entitled to vote in the direction or management of the affairs of a company; and a specified per centum of the outstanding voting securities of a company means such amount of the outstanding voting securities of such company as entitles the holder or holders thereof to cast said specified per centum of the aggregate votes which the holders of all the outstanding voting securities of such company are entitled to cast in the direction or management of the affairs of such company.

(18) "Utility assets" means the facilities, in place, of any electric utility company or gas utility company for the production, transmission, transportation, or distribution of electric energy or natural or manufactured gas.

(19) "Service contract" means any contract, agreement, or understanding whereby a person undertakes to sell or furnish, for a charge, any managerial, financial, legal, engineering, purchasing, marketing, auditing, statistical, advertising, publicity, tax, research, or any other service, information, or data.

(20) "Sales contract" means any contract, agreement, or understanding whereby a person undertakes to sell, lease, or furnish, for a charge, any goods, equipment, materials, supplies, appliances, or similar property. As used in this paragraph the term "property" does not include electric energy or natural or manufactured gas.

(21) "Construction contract" means any contract, agreement, or understanding for the construction, extension, improvement, maintenance, or repair of the facilities or any part thereof of a company for a charge.

(22) "Buy", "acquire", "acquisition", or "purchase" includes any purchase, acquisition by lease, exchange, merger, consolidation, or other acquisition.

(23) "Sale" or "sell" includes any sale, disposition by lease, exchange or pledge, or other disposition.

(24) "State" means any State of the United States or the District of Columbia

(25) "United States", when used in a geographical sense, means the States.

(26) "State commission" means any commission, board, agency, or officer, by whatever name designated, of a State, municipality, or other political subdivision of a State which under the law of such State has jurisdiction to regulate public-utility companies.

(27) "State securities commission" means any commission, board, agency, or officer, by whatever name designated, other than a State commission as defined in paragraph (26) of this subsection, which under the

law of a State has jurisdiction to regulate, approve, or control the issue or sale of a security by a company.

(28) "Interstate commerce" means trade, commerce, transportation, transmission, or communication among the several States or between any State and any place outside thereof.

(29) "Integrated public-utility system" means—

(A) As applied to electric utility companies, a system consisting of one or more units of generating plants and/or transmission lines and/or more electric utility companies, are physically interconnected or capable of physical interconnection and which under normal conditions may be economically operated as a single interconnected and coordinated system confined in its operations to a single area or region, in one or more States, not so large as to impair (considering the state of the art and the area or region affected) the advantages of localized management, efficient operation, and the effectiveness of regulation; and

(B) As applied to gas utility companies, a system consisting of one or more gas utility companies which are so located and related that substantial economies may be effectuated by being operated as a single coordinated system confined in its operations to a single area or region, in one or more States, not so large as to impair (considering the state of the art and the area or region affected) the advantages of localized management, efficient operation, and the effectiveness of regulation: *Provided*, That gas utility companies deriving natural gas from a common source of supply may be deemed to be included in a single area or region.

(b) Order of Commission essential to status as "holding company", "subsidiary company" or "affiliate." No person shall be deemed to be a holding company under clause (B) of paragraph (7) of subsection (a), or a subsidiary company under clause (B) of paragraph (8) of such subsection, or an affiliate under clause (D) of paragraph (11) of such subsection, unless the Commission, after appropriate notice and opportunity for hearing, has issued an order declaring such person to be a holding company, a subsidiary company, or an affiliate, or declaring a class of which such person is a member to be affiliates. Such an order shall not become effective for at least thirty days after the mailing of a copy thereof to the person thereby declared to be a holding company, subsidiary company, or affiliate; or, in the case of determination of affiliates by classes, until at least thirty days after appropriate publication thereof in such manner as the Commission shall determine. Whenever the Commission, on its own motion or upon application by the person declared to be a holding company, subsidiary company, or affiliate, finds that the circumstances which gave rise to the issuance of any such order no longer exist, the Commission shall by order revoke such order.

(c) Chapter inapplicable to United States, states, or their governmental agencies. No provision in this title shall apply to, or be deemed to include, the United States, a State, or any political subdivision of a State, or any agency, authority, or instrumentality of any one or more of the foregoing, or any corporation which is wholly owned directly or indirectly by any one or more of the foregoing, or any officer, agent, or employee of any of the foregoing acting as such in the course of his official duty, unless such provision makes specific reference thereto. (Aug 26, 1935, c. 687, Title I, § 2, 49 Stat. 804)

§ 79c. Exemptions regarding holding companies, subsidiary companies, and affiliates; power of Commission to make. (a) The Commission, by rules and regulations upon its own motion, or by order upon application, shall exempt any holding company, and every subsidiary company thereof as such, from any provision or provisions of this chapter, unless and except insofar as it finds the exemption detrimental to the public interest or the interest of investors or consumers, if—

(1) such holding company, and every subsidiary company thereof which is a public-utility company from which such holding company derives, directly

or indirectly, any material part of its income, are predominantly intrastate in character and carry on their business substantially in a single State in which such holding company and every such subsidiary company thereof are organized;

(2) such holding company is predominantly a public-utility company whose operations as such do not extend beyond the State in which it is organized and States contiguous thereto;

(3) such holding company is only incidentally a holding company, being primarily engaged or interested in one or more businesses other than the business of a public-utility company and (A) not deriving, directly or indirectly, any material part of its income from any one or more subsidiary companies, the principal business of which is that of a public-utility company, or (B) deriving a material part of its income from any one or more such subsidiary companies, if substantially all the outstanding securities of such companies are owned, directly or indirectly, by such holding company;

(4) such holding company is temporarily a holding company solely by reason of the acquisition of securities for purposes of liquidation or distribution in connection with a bona fide debt previously contracted or in connection with a bona fide arrangement for the underwriting or distribution of securities; or

(5) such holding company is not, and derives no material part of its income, directly or indirectly, from any one or more subsidiary companies which are, a company or companies the principal business of which within the United States is that of a public-utility company.

(b) The Commission, by rules and regulations upon its own motion, or by order upon application, shall exempt any subsidiary company, as such, of a holding company from any provision or provisions of this chapter, the application of which to such subsidiary company the Commission finds is not necessary in the public interest or for the protection of investors, if such subsidiary company derives no material part of its income, directly or indirectly, from sources within the United States, and neither it nor any of its subsidiary companies is a public-utility company operating in the United States

(c) Within a reasonable time after the receipt of an application for exemption under subsection (a) or (b), the Commission shall enter an order granting, or, after notice and opportunity for hearing, denying or otherwise disposing of such application. The filing of an application in good faith under subsection (a) by a person other than a registered holding company shall exempt the applicant from any obligation, duty, or liability imposed in this chapter upon the applicant as a holding company until the Commission has acted upon such application. The filing of an application in good faith under subsection (b) shall exempt the applicant from any obligation, duty, or liability imposed in this chapter upon the applicant as a subsidiary company until the Commission has acted upon such application. Whenever the Commission, on its own motion, or upon application by the holding company or any subsidiary company thereof exempted by any order issued under subsection (a), or by the subsidiary company exempted by any order issued under subsection (b), finds that the circumstances which gave rise to the issuance of such order no longer exist, the Commission shall by order revoke such order.

(d) The Commission may, by rules and regulations, conditionally or unconditionally exempt any specified class or classes of persons from the obligations, duties, or liabilities imposed upon such persons as subsidiary companies or affiliates under any provision or provisions of this chapter, and may provide within the extent of any such exemption that such specified class or classes of persons shall not be deemed subsidiary companies or affiliates within the meaning of any such provision or provisions, if and to the extent that it deems the exemption necessary or appropriate in the public interest or for the protection of investors or consumers and not contrary to the



purposes of this chapter. (Aug. 26, 1935, c. 687, Title I, § 3, 49 Stat. §10.)

**§ 79d. Transactions by unregistered holding companies.** (a) After December 1, 1935, unless a holding company is registered under section 79e of this title, it shall be unlawful for such holding company, directly or indirectly—

(1) to sell, transport, transmit, or distribute, or own or operate any utility assets for the transportation, transmission, or distribution of, natural or manufactured gas or electric energy in interstate commerce;

(2) by use of the mails or any means or instrumentality of interstate commerce, to negotiate, enter into, or take any step in the performance of, any service, sales, or construction contract undertaking to perform services or construction work for, or sell goods to, any public-utility company or holding company;

(3) to distribute or make any public offering for sale or exchange of any security of such holding company, any subsidiary company or affiliate of such holding company, any public-utility company, or any holding company, by use of the mails or any means or instrumentality of interstate commerce, or to sell any such security having reason to believe that such security, by use of the mails or any means or instrumentality of interstate commerce, will be distributed or made the subject of a public offering;

(4) by use of the mails or any means or instrumentality of interstate commerce, to acquire or negotiate for the acquisition of any security or utility assets of any subsidiary company or affiliate of such holding company, any public-utility company, or any holding company;

(5) to engage in any business in interstate commerce; or

(6) to own, control, or hold with power to vote, any security of any subsidiary company thereof that does any of the acts enumerated in paragraphs (1) to (5), inclusive, of this subsection.

(b) Every holding company which has outstanding any security any of which, by use of the mails or any means or instrumentality of interstate commerce, has been distributed or made the subject of a public offering subsequent to January 1, 1935, and any of which security is owned or held on October 1, 1935 (or, if such company is not a holding company on that date, on the date such company becomes a holding company) by persons not resident in the State in which such holding company is organized, shall register under section 79e of this title on or before December 1, 1935 or the thirtieth day after such company becomes a holding company, whichever date is later. (Aug. 26, 1935, c. 687, Title I, § 4, 49 Stat. §12.)

**§ 79e. Registration of holding companies; registration statement, contents.** (a) On or at any time after October 1, 1935, any holding company or any person purposing to become a holding company may register by filing with the Commission a notification of registration, in such form as the Commission may by rules and regulations prescribe as necessary or appropriate in the public interest or for the protection of investors or consumers. A person shall be deemed to be registered upon receipt by the Commission of such notification of registration

(b) It shall be the duty of every registered holding company to file with the Commission, within such reasonable time after registration as the Commission shall fix by rules and regulations or order, a registration statement in such form as the Commission shall by rules and regulations or order prescribe as necessary or appropriate in the public interest or for the protection of investors or consumers. Such registration statement shall include—

(1) such copies of the charter or articles of incorporation, partnership, or agreement, with all amendments thereto, and the bylaws, trust indentures, mortgages, underwriting arrangements, voting-trust agreements, and similar documents, by whatever name known, of or relating to the registrant or any of its associate companies as the Commission may by rules

and regulations or order prescribe as necessary or appropriate in the public interest or for the protection of investors or consumers;

(2) such information in such form and in such detail relating to, and copies of such documents of or relating to, the registrant and its associate companies as the Commission may by rules and regulations or order prescribe as necessary or appropriate in the public interest or for the protection of investors or consumers in respect of—

(A) the organization and financial structure of such companies and the nature of their business;

(B) the terms, position, rights, and privileges of the different classes of their securities outstanding;

(C) the terms and underwriting arrangements under which their securities, during not more than the five preceding years, have been offered to the public or otherwise disposed of and the relations of underwriters to, and their interest in, such companies;

(D) the directors and officers of such companies, their remuneration, their interest in the securities of, their material contracts with, and their borrowings from, any of such companies;

(E) bonus and profit-sharing arrangements;

(F) material contracts, not made in the ordinary course of business, and service, sales, and construction contracts;

(G) options in respect of securities;

(H) balance sheets for not more than the five preceding fiscal years, certified, if required by the rules and regulations of the Commission, by an independent public accountant;

(I) profit and loss statements for not more than the five preceding fiscal years, certified, if required by the rules and regulations of the Commission, by an independent public accountant;

(3) such further information or documents regarding the registrant or its associate companies or the relations between them as the Commission may by rules and regulations or order prescribe as necessary or appropriate in the public interest or for the protection of investors or consumers.

(c) The Commission by such rules and regulations or order as it deems necessary or appropriate in the public interest or for the protection of investors or consumers, may permit a registrant to file a preliminary registration statement without complying with the provisions of subsection (b); but every registrant shall file a complete registration statement with the Commission within such reasonable period of time as the Commission shall fix by rules and regulations or order, but not later than one year after the date of registration.

(d) Whenever the Commission, upon application, finds that a registered holding company has ceased to be a holding company, it shall so declare by order and upon the taking effect of such order the registration of such company shall, upon such terms and conditions as the Commission finds and in such order prescribes as necessary for the protection of investors, cease to be in effect. The denial of any such application by the Commission shall be by order. (Aug. 26, 1935, c. 687, Title I, § 5, 49 Stat. §12.)

**§ 79f. Unlawful transactions by registered companies—**(a) Issuing, selling or altering rights of stockholders to declaration. Except in accordance with a declaration effective under section 79g and with the order under such section permitting such declaration to become effective, it shall be unlawful for any registered holding company or subsidiary company thereof, by use of the mails or any means or instrumentality of interstate commerce, or otherwise, directly or indirectly (1) to issue or sell any security of such company; or (2) to exercise any privilege or right to alter the priorities, preferences, voting power, or other rights of the holders of an outstanding security of such company.

(b) Exemptions from, operation of subsection (a). The provisions of subsection (a) shall not apply to the issue, renewal, or guaranty by a registered holding company or subsidiary company thereof of a note or

draft (including the pledge of any security as collateral therefor) if such note or draft (1) is not part of a public offering, (2) matures or is renewed for not more than nine months, exclusive of days of grace, after the date of such issue, renewal, or guaranty thereof, and (3) aggregates (together with all other then outstanding notes and drafts of a maturity of nine months or less, exclusive of days of grace, as to which such company is primarily or secondarily liable) not more than 5 per centum of the principal amount and par value of the other securities of such company then outstanding, or such greater per centum thereof as the Commission upon application may by order authorize as necessary or appropriate in the public interest or for the protection of investors or consumers. In the case of securities having no principal amount or no par value, the value for the purposes of this subsection shall be the fair market value as of the date of issue. The Commission by rules and regulations or order, subject to such terms and conditions as it deems appropriate in the public interest or for the protection of investors or consumers, shall exempt from the provisions of subsection (a) the issue or sale of any security by any subsidiary company of a registered holding company, if the issue and sale of such security are solely for the purpose of financing the business of such subsidiary company and have been expressly authorized by the State commission of the State in which such subsidiary company is organized and doing business, or if the issue and sale of such security are solely for the purpose of financing the business of such subsidiary company when such subsidiary company is not a holding company, a public-utility company, an investment company, or a fiscal or financing agency of a holding company, a public utility company, or an investment company. The provisions of subsection (a) shall not apply to the issue, by a registered holding company or subsidiary company thereof, of a security issued pursuant to the terms of any security outstanding on January 1, 1935, giving the holder of such outstanding security the right to convert such outstanding security into another security of the same issuer or of another person, or giving the right to subscribe to another security of the same issuer or another issuer. Within ten days after any issue, sale, renewal, or guaranty exempted from the application of subsection (a) by or under authority of this subsection, such holding company or subsidiary company thereof shall file with the Commission a certificate of notification in such form and setting forth such of the information required in a declaration under section 79g of this chapter as the Commission may by rules and regulations or order prescribe as necessary or appropriate in the public interest or for the protection of investors or consumers.

(c) **Selling from house to house; causing officer or employer of subsidiary to sell.** It shall be unlawful, by use of the mails or any means or instrumentality of interstate commerce, or otherwise, for any registered holding company or any subsidiary company thereof, directly or indirectly,—

(1) to sell or offer for sale or to cause to be sold or offered for sale, from house to house, any security of such holding company; or

(2) to cause any officer or employee of any subsidiary company of such holding company to sell or cause to be sold any security of such holding company.

As used in this subsection the term "house" shall not include an office used for business purposes. (Aug 26, 1935, c. 687, Title I. § 6, 49 Stat. 814.)

§ 79g. **Declarations by registered companies in respect to security transactions—**

(a) **Contents.** A registered holding company or subsidiary company thereof may file a declaration with the Commission, regarding any of the acts enumerated in subsection (a) of section 79f of this chapter, in such form as the Commission may by rules and regulations prescribe as necessary or appropriate in the public interest or for the protection of investors or consumers. Such declaration shall include—

(1) such of the information and documents which are required to be filed in order to register a security under section 77g of chapter 2A, as the Commission may by rules and regulations or order prescribe as necessary or appropriate in the public interest or for the protection of investors or consumers; and

(2) such additional information, in such form and detail, and such documents regarding the declarant or any associate company thereof, the particular security and compliance with such State laws as may apply to the act in question as the Commission may by rules and regulations or order prescribe as necessary or appropriate in the public interest or for the protection of investors or consumers.

(b) **Effective date of declaration; order of commission.** A declaration filed under this section shall become effective within such reasonable period of time after the filing thereof as the Commission shall fix by rules and regulations or order, unless the Commission prior to the expiration of such period shall have issued an order to the declarant to show cause why such declaration should become effective. Within a reasonable time after an opportunity for hearing upon an order to show cause under this subsection, unless the declarant shall withdraw its declaration, the Commission shall enter an order either permitting such declaration to become effective as filed or amended, or refusing to permit such declaration to become effective. Amendments to a declaration may be made upon such terms and conditions as the Commission may prescribe.

(c) **Conditions precedent to permitting declaration to become effective.** The Commission shall not permit a declaration regarding the issue or sale of a security to become effective unless it finds that—

(1) such security is (A) a common stock having a par value and being without preference as to dividends or distribution over, and having at least equal voting rights with, any outstanding security of the declarant; (B) a bond (i) secured by a first lien on physical property of the declarant, or (ii) secured by an obligation of a subsidiary company of the declarant secured by a first lien on physical property of such subsidiary company, or (iii) secured by any other assets of the type and character which the Commission by rules and regulations or order may prescribe as appropriate in the public interest or for the protection of investors; (C) a guaranty of, or assumption of liability on, a security of another company; or (D) a receiver's or trustee's certificate duly authorized by the appropriate court or courts; or

(2) such security is to be issued or sold solely (A) for the purpose of refunding, extending, exchanging, or discharging an outstanding security of the declarant and/or a predecessor company thereof or for the purpose of effecting a merger, consolidation, or other reorganization; (B) for the purpose of financing the business of the declarant as a public-utility company; (C) for the purpose of financing the business of the declarant, when the declarant is neither a holding company nor a public-utility company; and/or (D) for necessary and urgent corporate purposes of the declarant where the requirements of the provisions of paragraph (1) would impose an unreasonable financial burden upon the declarant and are not necessary or appropriate in the public interest or for the protection of investors or consumers; or

(3) such security is one the issuance of which was authorized by the company prior to January 1, 1935, and which the Commission by rules and regulations or order authorizes as necessary or appropriate in the public interest or for the protection of investors or consumers.

(d) **Conditions having permission of effectiveness.** If the requirements of subsections (c) and (g) are satisfied, the Commission shall permit a declaration regarding the issue or sale of a security to become effective unless the Commission finds that—

(1) the security is not reasonably adapted to the security structure of the declarant and other companies in the same holding-company system;

(2) the security is not reasonably adapted to the earning power of the declarant;

(3) financing by the issue and sale of the particular security is not necessary or appropriate to the economical and efficient operation of a business in which the applicant lawfully is engaged or has an interest;

(4) the fees, commissions, or other remuneration, to whomsoever paid, directly or indirectly, in connection with the issue, sale, or distribution of the security are not reasonable;

(5) in the case of a security that is a guaranty of, or assumption of liability on, a security of another company, the circumstances are such as to constitute the making of such guaranty or the assumption of such liability an improper risk for the declarant; or

(6) the terms and conditions of the issue or sale of the security are detrimental to the public interest or the interest of investors or consumers.

**(e) Declaration regarding alterations, priorities, voting power and other rights of security holders.** If the requirements of subsection (g) are satisfied, the Commission shall permit a declaration to become effective regarding the exercise of a privilege or right to alter the priorities, preferences, voting power, or other rights of the holders of an outstanding security unless the Commission finds that such exercise of such privilege or right will result in an unfair or inequitable distribution of voting power among holders of the securities of the declarant or is otherwise detrimental to the public interest or the interest of investors or consumers.

**(f) Order permitting declaration to become effective.** Any order permitting a declaration to become effective may contain such terms and conditions as the Commission finds necessary to assure compliance with the conditions specified in this section.

**(g) Compliance with state laws as condition to permission of effectiveness.** If a State commission or State securities commission, having jurisdiction over any of the acts enumerated in subsection (a) of section 79f of this chapter, shall inform the Commission, upon request by the Commission for an opinion or otherwise, that State laws applicable to the act in question have not been complied with, the Commission shall not permit a declaration regarding the act in question to become effective until and unless the Commission is satisfied that such compliance has been effected. (Aug. 26, 1935, c. 687, Title I, § 7. 49 Stat. 815.)

**§ 79h. Acquiring interest in electric and gas companies serving same territory.** Whenever a State law prohibits, or requires approval or authorization of, the ownership or operation by a single company of the utility assets of an electric utility company and a gas utility company serving substantially the same territory, it shall be unlawful for a registered holding company, or any subsidiary company thereof, by use of the mails or any means or instrumentality of interstate commerce, or otherwise,—

(1) to take any step, without the express approval of the State commission of such State, which results in its having a direct or indirect interest in an electric utility company and a gas utility company serving substantially the same territory; or

(2) if it already has any such interest, to acquire, without the express approval of the State commission, any direct or indirect interest in an electric utility company or gas utility company serving substantially the same territory as that served by such companies in which it already has an interest. (Aug. 26, 1935, c. 687, Title I, § 8, 49 Stat. 817.)

**§ 79i. Acquisition of securities and utility assets and other interests.** (a) Unless the acquisition has been approved by the Commission under section 10, it shall be unlawful—

(1) for any registered holding company or any subsidiary company thereof, by use of the mails or any means or instrumentality of interstate commerce, or otherwise, to acquire, directly or indirectly, any securities or utility assets or any other interest in any business;

(2) for any person, by use of the mails or any means or instrumentality of interstate commerce, to acquire, directly or indirectly, any security of any public-utility company, if such person is an affiliate under clause (A) of paragraph (11) of subsection (a) of section 79b of this title, of such company and of any other public utility or holding company, or will by virtue of such acquisition become such an affiliate.

(b) Subsection (a) shall not apply to—

(1) the acquisition by a public-utility company of utility assets the acquisition of which has been expressly authorized by a State commission; or

(2) the acquisition by a public-utility company of securities of a subsidiary public-utility company thereof, provided that both such public-utility companies and all other public-utility companies in the same holding-company system are organized in the same State, that the business of each such company in such system is substantially confined to such State, and that the acquisition of such securities has been expressly authorized by the State commission of such State.

(c) Subsection (a) shall not apply to the acquisition by a registered holding company, or a subsidiary company thereof, of—

(1) securities of, or securities the principal or interest of which is guaranteed by, the United States, a State, or political subdivision of a State, or any agency, authority, or instrumentality of any one or more of the foregoing, or any corporation which is wholly owned, directly or indirectly, by any one or more of the foregoing;

(2) such other readily marketable securities, within the limitation of such amounts, as the Commission may by rules and regulations prescribe as appropriate for investment of current funds and as not detrimental to the public interest or the interest of investors or consumers; or

(3) such commercial paper and other securities, within such limitations, as the Commission may by rules and regulations or order prescribe as appropriate in the ordinary course of business of a registered holding company or subsidiary company thereof and as not detrimental to the public interest or the interest of investors or consumers. (Aug. 26, 1935, c. 687, Title I, § 9, 49 Stat. 817.)

**§ 79j. Approval of acquisition of securities and utility assets and other interests—(a) Contents of application.** A person may apply for approval of the acquisition of securities or utility assets, or of any other interest in any business, by filing an application in such form as the Commission may by rules and regulations prescribe as necessary or appropriate in the public interest or for the protection of investors and consumers. Such application shall include—

(1) in the case of the acquisition of securities, such information and copies of such documents as the Commission may by rules and regulations or order prescribe as necessary or appropriate in the public interest or for the protection of investors or consumers in respect of—

(A) the security to be acquired, the consideration to be paid therefor, and compliance with such State laws as may apply in respect of the issue, sale, or acquisition thereof.

(B) the outstanding securities of the company whose security is to be acquired, the terms, position, rights, and privileges of each class and the options in respect of any such securities.

(C) the names of all security holders of record (or otherwise known to the applicant) owning, holding, or controlling 1 per centum or more of any class of security of such company, the officers and directors of such company, and their remuneration, security holdings in, material contracts with, and borrowings from such company and the offices or directorships held, and securities owned, held, or controlled, by them in other companies.

(D) the bonus, profit-sharing and voting-trust agreements, underwriting arrangements, trust indentures, mortgages, and similar documents, by whatever name known, of or relating to such company,

(E) the material contracts, not made in the ordinary course of business, and the service, sales, and construction contracts of such company,

(F) the securities owned, held, or controlled, directly or indirectly, by such company,

(G) balance sheets and profit and loss statements of such company for not more than the five preceding fiscal years, certified, if required by the rules and regulations of the Commission by an independent public accountant,

(H) any further information regarding such company and any associate company or affiliate thereof, or its relations with the applicant company, and

(I) if the applicant be not a registered holding company, any of the information and documents which may be required under section 79e of this chapter from a registered holding company;

(2) in the case of the acquisition of utility assets, such information concerning such assets, the value thereof and consideration to be paid therefor, the owner or owners thereof and their relation to, agreements with, and interest in the securities of, the applicant or any associate company thereof as the Commission may by rules and regulations or order prescribe as necessary or appropriate in the public interest or for the protection of investors or consumers; and

(3) in the case of the acquisition of any other interest in any business, such information concerning such business and the interest to be acquired, and the consideration to be paid, as the Commission may by rules and regulations or order prescribe as necessary or appropriate in the public interest or for the protection of investors or consumers.

**(b) Conditions affecting approval.** If the requirements of subsection (f) are satisfied, the Commission shall approve the acquisition unless the Commission finds that—

(1) such acquisition will tend towards interlocking relations or the concentration of control of public-utility companies, of a kind or to an extent detrimental to the public interest or the interest of investors or consumers;

(2) in case of the acquisition of securities or utility assets, the consideration, including all fees, commissions, and other remuneration, to whomsoever paid, to be given, directly or indirectly, in connection with such acquisition is not reasonable or does not bear a fair relation to the sums invested in or the earning capacity of the utility assets to be acquired or the utility assets underlying the securities to be acquired; or

(3) such acquisition will unduly complicate the capital structure of the holding-company system of the applicant or will be detrimental to the public interest or the interest of investors or consumers or the proper functioning of such holding-company system.

The Commission may condition its approval of the acquisition of securities of another company upon such a fair offer to purchase such of the other securities of the company whose security is to be acquired as the Commission may find necessary or appropriate in the public interest or for the protection of investors or consumers.

**(c) Conditions barring approval.** Notwithstanding the provisions of subsection (b), the Commission shall not approve—

(1) an acquisition of securities or utility assets, or of any other interest, which is unlawful under the provisions of section 79h of this title or is detrimental to the carrying out of the provisions of section 79k of this title; or

(2) the acquisition of securities or utility assets of a public-utility or holding company unless the Commission finds that such acquisition will serve the public interest by tending towards the economical and efficient development of an integrated public-utility system. This paragraph shall not apply to the acquisition of securities or utility assets of a public-utility company operating exclusively outside the United States.

**(d) Approval to be granted in reasonable time.** Within such reasonable time after the filing of an application under this section as the Commission shall fix by rules and regulations or order, the Commission shall enter an order either granting or, after notice and opportunity for hearing, denying approval of the acquisition unless the applicant shall withdraw its application. Amendments to an application may be made upon such terms and conditions as the Commission may prescribe.

**(e) Terms and conditions of order granting approval.** The Commission, in any order approving the acquisition of securities or utility assets, may prescribe such terms and conditions in respect of such acquisition, including the price to be paid for such securities or utility assets, as the Commission may find necessary or appropriate in the public interest or for the protection of investors or consumers.

**(f) Compliance with state laws as condition of approval.** The Commission shall not approve any acquisition as to which an application is made under this section unless it appears to the satisfaction of the Commission that such State laws as may apply in respect of such acquisition have been complied with, except where the Commission finds that compliance with such State laws would be detrimental to the carrying out of the provisions of section 79k of this chapter. (Aug. 26, 1935, c. 687, Title I, § 10, 49 Stat. 815.)

**§ 79k. Simplification of holding company systems—**

**(a) Examination by Commission with view to simplification.** It shall be the duty of the Commission to examine the corporate structure of every registered holding company and subsidiary company thereof, the relationships among the companies in the holding-company system of every such company and the character of the interests thereof and the properties owned or controlled thereby to determine the extent to which the corporate structure of such holding-company system and the companies therein may be simplified, unnecessary complexities therein eliminated, voting power fairly and equitably distributed among the holders of securities thereof, and the properties and business thereof confined to those necessary or appropriate to the operations of an integrated public-utility system.

**(b) Limitations on operations of holding company systems.** It shall be the duty of the Commission, as soon as practicable after January 1, 1938:

(1) To require by order, after notice and opportunity for hearing, that each registered holding company, and each subsidiary company thereof, shall take such action as the Commission shall find necessary to limit the operations of the holding-company system of which such company is a part to a single integrated public-utility system, and to such other businesses as are reasonably incidental, or economically necessary or appropriate to the operations of such integrated public-utility system: *Provided, however,* That the Commission shall permit a registered holding company to continue to control one or more additional integrated public-utility systems, if, after notice and opportunity for hearing, it finds that—

(A) Each of such additional systems cannot be operated as an independent system without the loss of substantial economies which can be secured by the retention of control by such holding company of such system;

(B) All of such additional systems are located in one State, or in adjoining States, or in a contiguous foreign country; and

(C) The continued combination of such systems under the control of such holding company is not so large (considering the state of the art and the area or region affected) as to impair the advantages of localized management, efficient operation, or the effectiveness of regulation.

The Commission may permit as reasonably incidental, or economically necessary or appropriate to the operations of one or more integrated public-utility systems the retention of an interest in any business (other than the business of a public-utility company

as such) which the Commission shall find necessary or appropriate in the public interest or for the protection of investors or consumers and not detrimental to the proper functioning of such system or systems.

(2) To require by order, after notice and opportunity for hearing, that each registered holding company, and each subsidiary company thereof, shall take such steps as the Commission shall find necessary to ensure that the corporate structure or continued existence of any company in the holding-company system does not unduly or unnecessarily complicate the structure, or unfairly or inequitably distribute voting power among security holders, of such holding-company system. In carrying out the provisions of this paragraph the Commission shall require each registered holding company (and any company in the same holding-company system with such holding company) to take such action as the Commission shall find necessary in order that such holding company shall cease to be a holding company with respect to each of its subsidiary companies which itself has a subsidiary company which is a holding company. Except for the purpose of fairly and equitably distributing voting power among the security holders of such company, nothing in this paragraph shall authorize the Commission to require any change in the corporate structure or existence of any company which is not a holding company, or of any company whose principal business is that of a public-utility company.

The Commission may by order revoke or modify any order previously made under this subsection, if, after notice and opportunity for hearing, it finds that the conditions upon which the order was predicated do not exist. Any order made under this subsection shall be subject to judicial review as provided in section 79x of this chapter.

(c) **Time for compliance with order limiting operations.** Any order under subsection (b) shall be complied with within one year from the date of such order; but the Commission shall, upon a showing (made before or after the entry of such order) that the applicant has been or will be unable in the exercise of due diligence to comply with such order within such time, extend such time for an additional period not exceeding one year if it finds such extension necessary or appropriate in the public interest or for the protection of investors or consumers.

(d) **Court enforcement of order for simplification; appointment of trustee; disposition of assets; reorganization plan.** The Commission may apply to a court, in accordance with the provisions of subsection (f) of section 79r of this chapter, to enforce compliance with any order issued under subsection (b). In any such proceeding, the court as a court of equity may, to such extent as it deems necessary for purposes of enforcement of such order, take exclusive jurisdiction and possession of the company or companies and the assets thereof, wherever located; and the court shall have jurisdiction, in any such proceeding, to appoint a trustee, and the court may constitute and appoint the Commission as sole trustee, to hold or administer under the direction of the court the assets so possessed. In any proceeding for the enforcement of an order of the Commission issued under subsection (b), the trustee with the approval of the court shall have power to dispose of any or all of such assets and, subject to such terms and conditions as the court may prescribe, may make such disposition in accordance with a fair and equitable reorganization plan which shall have been approved by the Commission after opportunity for hearing. Such reorganization plan may be proposed in the first instance by the Commission, or, subject to such rules and regulations as the Commission may deem necessary or appropriate in the public interest or for the protection of investors, by any person having a bona fide interest (as defined by the rules and regulations of the Commission) in the reorganization.

(e) **Submission by company of plan for simplification; court enforcement of order of approval; appointment of trustee.** In accordance with such rules and regulations or order as the Commission may deem

necessary or appropriate in the public interest or for the protection of investors or consumers, any registered holding company or any subsidiary company of a registered holding company may, at any time after January 1, 1936, submit a plan to the Commission for the divestment of control, securities, or other assets, or for other action by such company or any subsidiary company thereof for the purpose of enabling such company or any subsidiary company thereof to comply with the provisions of subsection (b). If, after notice and opportunity for hearing, the Commission shall find such plan, as submitted or as modified, necessary to effectuate the provisions of subsection (b) and fair and equitable to the persons affected by such plan, the Commission shall make an order approving such plan, and the Commission, at the request of the company, may apply to a court, in accordance with the provisions of subsection (f) of section 79r of this chapter, to enforce and carry out the terms and provisions of such plan. If, upon any such application, the court, after notice and opportunity for hearing, shall approve such plan as fair and equitable and as appropriate to effectuate the provisions of this section, the court as a court of equity may, to such extent as it deems necessary for the purpose of carrying out the terms and provisions of such plan, take exclusive jurisdiction and possession of the company or companies and the assets thereof, wherever located; and the court shall have jurisdiction to appoint a trustee, and the court may constitute and appoint the Commission as sole trustee, to hold or administer, under the direction of the court and in accordance with the plan theretofore approved by the court and the Commission, the assets so possessed.

(f) **Commission as trustee; submission of reorganization plan by commission or interested party.** In any proceeding in a court of the United States, whether under this section or otherwise, in which a receiver or trustee is appointed for any registered holding company, or any subsidiary company thereof, the court may constitute and appoint the Commission as sole trustee or receiver, subject to the directions and orders of the court, whether or not a trustee or receiver shall theretofore have been appointed, and in any such proceeding the court shall not appoint any person other than the Commission as trustee or receiver without notifying the Commission and giving it an opportunity to be heard before making any such appointment. In no proceeding under this section or otherwise shall the Commission be appointed as trustee or receiver without its express consent. In any such proceeding a reorganization plan for a registered holding company or any subsidiary company thereof shall not become effective unless such plan shall have been approved by the Commission after opportunity for hearing prior to its submission to the court. Notwithstanding any other provision of law, any such reorganization plan may be proposed in the first instance by the Commission or, subject to such rules and regulations as the Commission may deem necessary or appropriate in the public interest or for the protection of investors, by any person having a bona fide interest (as defined by the rules and regulations of the Commission) in the reorganization. The Commission may, by such rules and regulations or order as it may deem necessary or appropriate in the public interest or for the protection of investors or consumers, require that any or all fees, expenses, and remuneration, to whomsoever paid, in connection with any reorganization, dissolution, liquidation, bankruptcy, or receivership of a registered holding company or subsidiary company thereof, in any such proceeding, shall be subject to approval by the Commission.

(g) **Solicitation of proxies, powers of attorney, etc., in respect of reorganization plan.** It shall be unlawful for any person to solicit or permit the use of his or its name to solicit, by use of the mails or any means or instrumentality of interstate commerce, or otherwise, any proxy, consent, authorization, power of attorney, deposit, or dissent in respect of any reorganization plan of a registered holding company or



any subsidiary company thereof under this section, or otherwise, or in respect of any plan under this section for the divestment of control, securities, or other assets, or for the dissolution of any registered holding company or any subsidiary company thereof, unless—

(1) the plan has been proposed by the Commission, or the plan and such information regarding it and its sponsors as the Commission may deem necessary or appropriate in the public interest or for the protection of investors or consumers has been submitted to the Commission by a person having a bona fide interest (as defined by the rules and regulations of the Commission) in such reorganization;

(2) each such solicitation is accompanied or preceded by a copy of a report on the plan which shall be made by the Commission after an opportunity for a hearing on the plan and other plans submitted to it, or by an abstract of such report made or approved by the Commission; and

(3) each such solicitation is made not in contravention of such rules and regulations or orders as the Commission may deem necessary or appropriate in the public interest or for the protection of investors or consumers.

Nothing in this subsection or the rules and regulations thereunder shall prevent any person from appearing before the Commission or any court through an attorney or proxy. (Aug. 26, 1935, c. 687, Title I, § 11, 49 Stat. 820.)

**§ 791. Intercompany and other transactions relating to registered companies—(a) Borrowing from other companies in same system.** It shall be unlawful for any registered holding company, by use of the mails or any means or instrumentality of interstate commerce, or otherwise, directly or indirectly, to borrow, or to receive any extension of credit or indemnity, from any public-utility company in the same holding-company system or from any subsidiary company of such holding company, but it shall not be unlawful under this subsection to renew, or extend the time of, any loan, credit, or indemnity outstanding on the date of the enactment of this chapter.

**(b) Loans to other companies in same system.** It shall be unlawful for any registered holding company or subsidiary company thereof, by use of the mails or any means or instrumentality of interstate commerce, or otherwise, directly or indirectly, to lend or in any manner extend its credit to or indemnify any company in the same holding-company system in contravention of such rules and regulations or orders as the Commission deems necessary or appropriate in the public interest or for the protection of investors or consumers or to prevent the circumvention of the provisions of this chapter or the rules, regulations, or orders thereunder.

**(c) Payment of dividends or retirement of securities.** It shall be unlawful for any registered holding company or any subsidiary company thereof, by use of the mails or any means or instrumentality of interstate commerce, or otherwise, to declare or pay any dividend on any security of such company or to acquire, retire, or redeem any security of such company, in contravention of such rules and regulations or orders as the Commission deems necessary or appropriate to protect the financial integrity of companies in holding-company systems, to safeguard the working capital of public-utility companies, to prevent the payment of dividends out of capital or unearned surplus, or to prevent the circumvention of the provisions of this chapter or the rules, regulations, or orders thereunder.

**(d) Sale of securities of other companies.** It shall be unlawful for any registered holding company, by use of the mails or any means or instrumentality of interstate commerce, or otherwise, to sell any security which it owns of any public-utility company, or any utility assets, in contravention of such rules and regulations or orders regarding the consideration to be received for such sale, maintenance of competitive conditions, fees and commissions, accounts, disclosure of interest, and similar matters as the Commission deems necessary or appropriate in the public interest

or for the protection of investors or consumers or to prevent the circumvention of the provisions of this chapter or the rules, regulations, or orders thereunder.

**(e) Solicitation of proxies, powers of attorney, etc., regarding securities.** It shall be unlawful for any person to solicit or to permit the use of his or its name to solicit, by use of the mails or any means or instrumentality of interstate commerce, or otherwise, any proxy, power of attorney, consent, or authorization regarding any security of a registered holding company or a subsidiary company thereof in contravention of such rules and regulations or orders as the Commission deems necessary or appropriate in the public interest or for the protection of investors or consumers or to prevent the circumvention of the provisions of this chapter or the rules, regulations, or orders thereunder.

**(f) Negotiations or transactions with other companies in contravention of rules and regulations of Commission.** It shall be unlawful for any registered holding company or subsidiary company thereof, by use of the mails or any means or instrumentality of interstate commerce, or otherwise, to negotiate, enter into, or take any step in the performance of any transaction not otherwise unlawful under this chapter, with any company in the same holding-company system or with any affiliate of a company in such holding-company system in contravention of such rules and regulations or orders regarding reports, accounts, costs, maintenance of competitive conditions, disclosure of interest, duration of contracts, and similar matters as the Commission deems necessary or appropriate in the public interest or for the protection of investors or consumers or to prevent the circumvention of the provisions of this chapter or the rules and regulations thereunder.

**(g) Negotiations or transactions by affiliate in contravention of rules and regulations of Commission.** It shall be unlawful for any affiliate of any public-utility company, by use of the mails or any means or instrumentality of interstate commerce, or for any affiliate of any public-utility company engaged in interstate commerce, or of any registered holding company or any subsidiary company thereof, by use of the mails or any means or instrumentality of interstate commerce, or otherwise, to negotiate, enter into, or take any step in the performance of any transaction not otherwise unlawful under this chapter, with any such company of which it is an affiliate, in contravention of such rules and regulations or orders regarding reports, accounts, costs, maintenance of competitive conditions, disclosure of interest, duration of contracts, and similar matters as the Commission deems necessary or appropriate to prevent the circumvention of the provisions of this chapter.

**(h) Political contributions forbidden.** It shall be unlawful for any registered holding company, or any subsidiary company thereof, by use of the mails or any means or instrumentality of interstate commerce, or otherwise, directly or indirectly—

(1) to make any contribution whatsoever in connection with the candidacy, nomination, election or appointment of any person for or to any office or position in the Government of the United States, a State, or any political subdivision of a State, or any agency, authority, or instrumentality of any one or more of the foregoing; or

(2) to make any contribution to or in support of any political party or any committee or agency thereof.

The term "contribution" as used in this subsection includes any gift, subscription, loan, advance, or deposit of money or anything of value, and includes any contract, agreement, or promise, whether or not legally enforceable, to make a contribution.

**(i) Representation before Congress or Commissions; filing statement of employment, compensation, etc.** It shall be unlawful for any person employed or retained by any registered holding company, or any subsidiary company thereof, to present, advocate, or oppose any matter affecting any registered holding

company or any subsidiary company thereof, before the Congress or any Member or committee thereof, or before the Commission or Federal Power Commission, or any member, officer, or employee of either such Commission, unless such person shall file with the Commission in such form and detail and at such time as the Commission shall by rules and regulations or order prescribe as necessary or appropriate in the public interest or for the protection of investors or consumers, a statement of the subject matter in respect of which such person is retained or employed, the nature and character of such retainer or employment, and the amount of compensation received or to be received by such person, directly or indirectly, in connection therewith. It shall be the duty of every such person so employed or retained to file with the Commission within ten days after the close of each calendar month during such retainer or employment, in such form and detail as the Commission shall by rules and regulations or order prescribe as necessary or appropriate in the public interest or for the protection of investors or consumers, a statement of the expenses incurred and the compensation received by such person during such month in connection with such retainer or employment. (Aug. 26, 1935, c. 687, Title I, § 12, 49 Stat. 823.)

§ 79m. **Service, sales and construction contracts—**  
**(a) Contracts by holding companies.** After April 1, 1936, it shall be unlawful for any registered holding company, by use of the mails or any means or instrumentality of interstate commerce, or otherwise, to enter into or take any step in the performance of any service, sales, or construction contract by which such company undertakes to perform services or construction work for, or sell goods to, any associate company thereof which is a public-utility or mutual service company. This provision shall not apply to such transactions, involving special or unusual circumstances or not in the ordinary course of business, as the Commission by rules and regulations or order may conditionally or unconditionally exempt as being necessary or appropriate in the public interest or for the protection of investors or consumers.

**(b) Contracts by subsidiary or mutual service companies.** After April 1, 1936, it shall be unlawful for any subsidiary company of any registered holding company or for any mutual service company, by use of the mails or any means or instrumentality of interstate commerce, or otherwise, to enter into or take any step in the performance of any service, sales, or construction contract by which such company undertakes to perform services or construction work for, or sell goods to, any associate company thereof except in accordance with such terms and conditions and subject to such limitations and prohibitions as the Commission by rules and regulations or order shall prescribe as necessary or appropriate in the public interest or for the protection of investors or consumers and to insure that such contracts are performed economically and efficiently for the benefit of such associate companies at cost, fairly and equitably allocated among such companies. This provision shall not apply to such transactions as the Commission by rules and regulations or order may conditionally or unconditionally exempt as being necessary or appropriate in the public interest or for the protection of investors or consumers, if such transactions (1) are with any associate company which does not derive, directly or indirectly, any material part of its income from sources within the United States and which is not a public-utility company operating within the United States, or (2) involve special or unusual circumstances or are not in the ordinary course of business.

**(c) Determination and allocation of costs; duration of contracts; regulation by rules of Commission.** The rules and regulations and orders of the Commission under this section may prescribe, among other things, such terms and conditions regarding the determination of costs and the allocation thereof among specified classes of companies and for specified classes of service, sales, and construction contracts, the duration of such contracts, the making and keeping of

accounts and cost-accounting procedures, the filing of annual and other periodic and special reports, the maintenance of competitive conditions, the disclosure of interests, and similar matters, as the Commission deems necessary or appropriate in the public interest or for the protection of investors or consumers.

**(d) Application for approval as mutual service company and nature of business; regulation by rules of Commission.** The rules and regulations and orders of the Commission under this section shall prescribe, among other things, such terms and conditions regarding the manner in which application may be made for approval as a mutual service company and the granting and continuance of such approval, the nature and enforcement of agreements for the sharing of expenses and distributing of revenues among member companies, and matters relating to such agreements, the nature and types of businesses and transactions in which mutual service companies may engage, and the manner of engaging therein, and the relations and transactions with member companies and affiliates, as the Commission deems necessary or appropriate in the public interest or for the protection of investors or consumers. The Commission shall not approve, or continue the approval of, any company as a mutual service company unless the Commission finds such company is so organized as to ownership, costs, revenues, and the sharing thereof as reasonably to insure the efficient and economical performance of service, sales, or construction contracts by such company for member companies, at cost fairly and equitably allocated among such member companies, at a reasonable saving to member companies over the cost to such companies of comparable contracts performed by independent persons. The Commission, upon its own motion or at the request of a member company or a State commission, may, after notice and opportunity for hearing, by order require a reallocation or reapportionment of costs among member companies of a mutual service company if it finds the existing allocation inequitable and may require the elimination of a service or services to a member company which does not bear its fair proportion of costs or which, by reason of its size or other circumstances, does not require such service or services. The Commission, after notice and opportunity for hearing, by order shall revoke, suspend, or modify the approval given any mutual service company if it finds that such company has persistently violated any provision of this section or any rule, regulation, or order thereunder.

**(e) Contracts by affiliate in contravention of rules and regulations of Commission.** It shall be unlawful for any affiliate of any public-utility company engaged in interstate commerce, or of any registered holding company or subsidiary company thereof, by use of the mails or any means or instrumentality of interstate commerce, or otherwise, to enter into or take any step in the performance of any service, sales, or construction contract, by which such affiliate undertakes to perform services or construction work for, or sell goods to, any such company of which it is an affiliate, in contravention of such rules and regulations or orders regarding reports, accounts, costs, maintenance of competitive conditions, disclosure of interest, duration of contracts, and similar matters, as the Commission deems necessary or appropriate to prevent the circumvention of the provisions of this title or the rules, regulations, or orders thereunder.

**(f) Contracts by persons engaged in performance of service, sales and construction in contravention of rules of Commission.** It shall be unlawful for any person whose principal business is the performance of service, sales, or construction contracts for public-utility or holding companies, by use of the mails or any means or instrumentality of interstate commerce, to enter into or take any step in the performance of any service, sales, or construction contract with any public-utility company, or for any such person, by use of the mails or any means or instrumentality of interstate commerce, or otherwise, to enter into or take any step in the performance of any service, sales, or construction contract with any public-utility com-



pany engaged in interstate commerce, or with any registered holding company or any subsidiary company of a registered holding company, in contravention of such rules and regulations or orders regarding reports, accounts, costs, maintenance of competitive conditions, disclosure of interest, duration of contracts, and similar matters as the Commission deems necessary or appropriate in the public interest or for the protection of investors or consumers or to prevent the circumvention of the provisions of this title or the rules, regulations, or orders thereunder.

(g) **Investigations and recommendations by Commission.** The Commission, in order to obtain information to serve as a basis for recommending further legislation, shall from time to time conduct investigations regarding the making, performance, and costs of service, sales, and construction contracts with holding companies and subsidiary companies thereof and with public-utility companies, the economies resulting therefrom, and the desirability thereof. The Commission shall report to Congress, from time to time, the results of such investigations, together with such recommendations for legislation as it deems advisable. On the basis of such investigations the Commission shall classify the different types of such contracts and the work done thereunder, and shall make recommendations from time to time regarding the standards and scope of such contracts in relation to public-utility companies of different kinds and sizes and the costs incurred thereunder and economies resulting therefrom. Such recommendations shall be made available to State commissions, public-utility companies, and to the public in such form and at such reasonable charge as the Commission may prescribe. (Aug. 26, 1935, c. 687, Title I, § 13, 49 Stat. 825.)

§ 79n. **Periodic and other reports.** Every registered holding company and every mutual service company shall file with the Commission such annual, quarterly, and other periodic and special reports, the answers to such specific questions and the minutes of such directors', stockholders', and other meetings, as the Commission may by rules and regulations or order prescribe as necessary or appropriate in the public interest or for the protection of investors or consumers. Such reports, if required by the rules and regulations of the Commission, shall be certified by an independent public accountant, and shall be made and filed at such time and in such form and detail as the Commission shall prescribe. The Commission may require that there be included in reports filed with it such information and documents as it finds necessary or appropriate to keep reasonably current the information filed under section 79e or 79m of this chapter, and such further information concerning the financial condition, security structure, security holdings, assets, and cost thereof, wherever determinable, and affiliations of the reporting company and the associate companies, member companies, and affiliates thereof as the Commission deems necessary or appropriate in the public interest or for the protection of investors or consumers. (Aug. 26, 1935, c. 687, Title I, § 14, 49 Stat. 827.)

§ 79o. **Accounts and records—(a) Duty of holding companies to keep.** Every registered holding company and every subsidiary company thereof shall make, keep, and preserve for such periods, such accounts, cost-accounting procedures, correspondence, memoranda, papers, books, and other records as the Commission deems necessary or appropriate in the public interest or for the protection of investors or consumers or for the enforcement of the provisions of this chapter or the rules, regulations, or orders thereunder.

(b) **Duty of affiliates to keep.** Every affiliate of a registered holding company or of any subsidiary company thereof, or of any public-utility company engaged in interstate commerce or not so engaged, shall make, keep, and preserve for such periods, such accounts, cost-accounting procedures, correspondence, memo-

randa, papers, books, and other records relating to any transaction of such affiliate which is subject to any provision of this chapter or any rule, regulation, or order thereunder, as the Commission deems necessary or appropriate in the public interest or for the protection of investors or consumers or for the enforcement of the provisions of this chapter or the rules, regulations, or orders thereunder.

(c) **Duty of mutual service companies to keep.** Every mutual service company, and every affiliate of a mutual service company as to any transaction of such affiliate which is subject to any provision of this chapter or any rule, regulation, or order thereunder, shall make, keep, and preserve for such periods, such accounts, cost-accounting procedures, correspondence, memoranda, papers, books, and other records, as the Commission deems necessary or appropriate in the public interest or for the protection of investors or consumers or for the enforcement of the provisions of this title or the rules, regulations, or orders thereunder.

(d) **Duty of persons engaged in service sales, or construction to keep.** Every person whose principal business is the performance of service, sales, or construction contracts for public-utility or holding companies shall make, keep, and preserve for such periods, such accounts, cost-accounting procedures, correspondence, memoranda, papers, books, and other records, relating to any transaction by such person which is subject to any provision of this chapter or any rule, regulation, or order thereunder, as the Commission deems necessary or appropriate in the public interest or for the protection of investors or consumers or for the enforcement of the provisions of this chapter or the rules and regulations thereunder.

(e) **Use of forms other than prescribed by Commission unlawful.** After the Commission has prescribed the form and manner of making and keeping accounts, cost-accounting procedures, correspondence, memoranda, papers, books, and other records to be kept by any person hereunder, it shall be unlawful for any such person to keep any accounts, cost-accounting procedures, correspondence, memoranda, papers, books, or other records other than those prescribed or such as may be approved by the Commission, or to keep his or its accounts, cost-accounting procedures, correspondence, memoranda, papers, books, or other records in any manner other than that prescribed or approved by the Commission.

(f) **Examinations by Commission.** All accounts, cost-accounting procedures, correspondence, memoranda, papers, books, and other records kept or required to be kept by persons subject to any provision of this section shall be subject at any time and from time to time to such reasonable periodic, special, and other examinations by the Commission, or any member or representative thereof, as the Commission may prescribe. The Commission, after notice and opportunity for hearing, may prescribe the account or accounts in which particular outlays, receipts, and other transactions shall be entered, charged, or credited and the manner in which such entry, charge, or credit shall be made, and may require an entry to be modified or supplemented so as properly to show the cost of any asset or any other cost.

(g) **Submission by holding company or subsidiary to examination by holders of securities.** It shall be the duty of every registered holding company and of every subsidiary company thereof and of every affiliate of a company insofar as such affiliate is subject to any provision of this chapter or any rule, regulation, or order thereunder, to submit the accounts, cost-accounting procedures, correspondence, memoranda, papers, books, and other records of such holding company, subsidiary company, or affiliate, as the case may be, to such examinations, in person or by duly appointed attorney, by the holder of any security of such holding company, subsidiary company, or affiliate, as the case may be, as the Commission deems necessary or appropriate in the public interest or for the protection of investors or consumers.

(h) **Submission by mutual service companies and persons engaged in rendering service to examination by other companies.** It shall be the duty of every mutual service company, and of every affiliate of a mutual service company, and of every person whose principal business is the performance of service, sales, or construction contracts for public-utility or holding companies, insofar as such affiliate or such person is subject to any provision of this chapter or any rule, regulation, or order thereunder, to submit the accounts, cost-accounting procedures, correspondence, memoranda, papers, books, and other records of such mutual service company, affiliate, or person to such examinations, in person or by duly appointed attorney, by member companies of such mutual service company and by public-utility or holding companies for which such person performs service, sales, or construction contracts as the Commission deems necessary or appropriate in the public interest or for the protection of investors or consumers.

(i) **Uniform methods for keeping accounts; power of Commission to prescribe.** The Commission, by such rules and regulations as it deems necessary or appropriate in the public interest or for the protection of investors or consumers may prescribe for persons subject to the provisions of subsection (a), (b), (c), or (d) of this section uniform methods for keeping accounts required under any provision of this section, including, among other things, the manner in which the cost of all assets, whenever determinable, shall be shown, the methods of classifying and segregating accounts, and the manner in which cost-accounting procedures shall be maintained. (Aug. 26, 1935, c. 687, Title I, § 15, 49 Stat. 828.)

§ 79p. **Misleading statements, penalty; rights and remedies additional to those existing under other laws.** (a) Any person who shall make or cause to be made any statement in any application, report, registration statement, or document filed pursuant to any provision of this chapter, or any rule, regulation, or order thereunder, which statement was at the time and in the light of the circumstances under which it was made false or misleading with respect to any material fact shall be liable in the same manner, to the same extent, and subject to the same limitations as provided in section 78r of this title with respect to an application, report, or document filed pursuant to sections 78a to 78jj of this title.

(b) The rights and remedies provided by this chapter, except as provided in section 79q of this title, shall be in addition to any and all other rights and remedies that may exist under sections 77a to 77mm of this title or sections 78a to 78jj of this title, or otherwise at law or in equity; but no person permitted to maintain a suit for damages under the provisions of this chapter shall recover, through satisfaction of judgment in one or more actions, a total amount in excess of his actual damages on account of the act complained of. (Aug. 26, 1935, c. 687, Title I, § 16, 49 Stat. 829.)

§ 79q. **Officers and directors—(a) Statement of ownership of securities; duty to file.** Every person who is an officer or director of a registered holding company shall file with the Commission in such form as the Commission shall prescribe (1) at the time of the registration of such holding company, or within ten days after such person becomes an officer or director, a statement of the securities of such registered holding company or any subsidiary company thereof of which he is, directly or indirectly, the beneficial owner, and (2) within ten days after the close of each calendar month thereafter, if there has been any change in such ownership during such month, a statement of such ownership as of the close of such calendar month and of the changes in such ownership that have occurred during such calendar month.

(b) **Limitation on profits in purchase and sale of securities.** For the purpose of preventing the unfair use of information which may have been obtained by any such officer or director by reason of his relationship to such registered holding company or any

subsidiary company thereof, any profit realized by any such officer or director from any purchase and sale, or any sale and purchase, of any security of such registered holding company or any subsidiary company thereof within any period of less than six months, unless such security was acquired in good faith in connection with a debt previously contracted, shall inure to and be recoverable by the holding company or subsidiary company in respect of the security of which such profit was realized, irrespective of any intention on the part of such officer or director in entering into such transaction to hold the security purchased or not to repurchase the security sold for a period of more than six months. Suit to recover such profit may be instituted at law or in equity in any court of competent jurisdiction by the company entitled thereto or by the owner of any security of such company in the name and in the behalf of such company if such company shall fail or refuse to bring such suit within sixty days after request or shall fail diligently to prosecute the same thereafter; but no such suit shall be brought more than two years after the date such profit was realized. This subsection shall not cover any transaction where such person was not an officer or director at the times of the purchase and sale, or the sale and purchase, of the security involved, or any transaction or transactions which the Commission by rules and regulations may, as necessary or appropriate in the public interest or for the protection of investors or consumers, exempt as not comprehended within the purpose of this subsection. Nothing in this subsection shall be construed to give a remedy in the case of any transaction in respect of which a remedy is given under subsection (b) of section 78p of this title.

(c) **Officers or representatives of banking institutions disqualified to serve as officers or directors.** After one year from August 26, 1935, no registered holding company or any subsidiary company thereof shall have, as an officer or director thereof, any executive officer, director, partner, appointee, or representative of any bank, trust company, investment banker, or banking association or firm, or any executive officer, director, partner, appointee, or representative of any corporation a majority of whose stock, having the unrestricted right to vote for the election of directors, is owned by any bank, trust company, investment banker, or banking association or firm, except in such cases as rules and regulations prescribed by the Commission may permit as not adversely affecting the public interest or the interest of investors or consumers. (Aug. 26, 1935, c. 687, Title I, § 17, 49 Stat. 830.)

§ 79r. **Investigations, injunctions and enforcement of law—(a) Investigations to determine violations, aid in enforcement and as basis for recommendations.** The Commission, in its discretion, may investigate any facts, conditions, practices, or matters which it may deem necessary or appropriate to determine whether any person has violated or is about to violate any provision of this chapter or any rule or regulation thereunder, or to aid in the enforcement of the provisions of this chapter, in the prescribing of rules and regulations thereunder, or in obtaining information to serve as a basis for recommending further legislation concerning the matters to which this chapter relates. The Commission may require or permit any person to file with it a statement in writing, under oath or otherwise as it shall determine, as to any or all facts and circumstances concerning a matter which may be the subject of investigation. The Commission, in its discretion, may publish, or make available to State commissions, information concerning any such subject.

(b) **Investigation of business, financial condition etc., of companies.** The Commission upon its own motion or at the request of a State commission may investigate, or obtain any information regarding the business, financial condition, or practices of any registered holding company or subsidiary company thereof or facts, conditions, practices, or matters affecting the

relations between any such company and any other company or companies in the same holding-company system.

(c) **Administering oaths; subpoenas; examining witnesses.** For the purpose of any investigation or any other proceeding under this chapter, any member of the Commission, or any officer thereof designated by it, is empowered to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, contracts, agreements, or other records which the Commission deems relevant or material to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in any State or in any Territory or other place subject to the jurisdiction of the United States at any designated place of hearing.

(d) **Court aid to compel giving testimony; penalty for refusal to testify.** In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Commission may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, correspondence, memoranda, contracts, agreements, and other records. And such court may issue an order requiring such person to appear before the Commission or member or officer designated by the Commission, there to produce records, if so ordered, or to give testimony touching the matter under investigation or in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever he may be found. Any person who, without just cause, shall fail or refuse to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda, contracts, agreements, or other records, if in his or its power so to do, in obedience to the subpoena of the Commission, shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine of not more than \$1,000 or to imprisonment for a term of not more than one year, or both.

(e) **Immunity of witness.** No person shall be excused from attending and testifying or from producing books, papers, correspondence, memoranda, contracts, agreements, or other records and documents before the Commission, or in obedience to the subpoena of the Commission or any member thereof or any officer designated by it, or in any cause or proceeding instituted by the Commission, on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subject to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he is compelled to testify or produce evidence, documentary or otherwise, after having claimed his privilege against self-incrimination, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

(f) **Injunctions to restrain violations; prosecutions.** Whenever it shall appear to the Commission that any person is engaged or about to engage in any acts or practices which constitute or will constitute a violation of the provisions of this chapter, or of any rule, regulation, or order thereunder, it may in its discretion bring an action in the proper district court of the United States, the Supreme Court of the District of Columbia, or the United States courts of any Territory or other place subject to the jurisdiction of the United States, to enjoin such acts or practices and to enforce compliance with this chapter or any rule, regulation, or order thereunder, and upon a proper showing a permanent or temporary injunction

or decree or restraining order shall be granted without bond. The Commission may transmit such evidence as may be available concerning such acts or practices to the Attorney General, who, in his discretion, may institute the appropriate criminal proceedings under this chapter.

(g) **Mandamus to compel compliance with law.** Upon application of the Commission, the district courts of the United States, the Supreme Court of the District of Columbia, and the United States courts of any Territory or other place subject to the jurisdiction of the United States shall have jurisdiction to issue writs of mandamus commanding any person to comply with the provisions of this chapter or any rule, regulation, or order of the Commission thereunder. (Aug. 26, 1935, c. 687, Title I, § 18, 49 Stat. 831.)

§ 79s. **Hearings before Commission.** Hearings may be public and may be held before the Commission, any member or members thereof, or any officer or officers of the Commission designated by it, and appropriate records thereof shall be kept. In any proceeding before the Commission, the Commission, in accordance with such rules and regulations as it may prescribe, shall admit as a party any interested State, State commission, State securities commission, municipality, or other political subdivision of a State, and may admit as a party any representative of interested consumers or security holders, or any other person whose participation in the proceedings may be in the public interest or for the protection of investors or consumers. (Aug. 26, 1935, c. 687, Title I, § 19, 49 Stat. 832.)

§ 79t. **Rules, regulations, and orders.**—(a) **Authority of Commission to make.** The Commission shall have authority from time to time to make, issue, amend, and rescind such rules and regulations and such orders as it may deem necessary or appropriate to carry out the provisions of this chapter, including rules and regulations defining accounting, technical, and trade terms used in this chapter. Among other things, the Commission shall have authority, for the purposes of this chapter, to prescribe the form or forms in which information required in any statement, declaration, application, report, or other document filed with the Commission shall be set forth, the items or details to be shown in balance sheets, profit and loss statements, and surplus accounts, the manner in which the cost of all assets, whenever determinable, shall be shown in regard to such statements, declarations, applications, reports, and other documents filed with the Commission, or accounts required to be kept by the rules, regulations, or orders of the Commission, and the methods to be followed in the keeping of accounts and cost-accounting procedures and the preparation of reports, in the segregation and allocation of costs, in the determination of liabilities, in the determination of depreciation and depletion, in the differentiation of recurring and nonrecurring income, in the differentiation of investment and operating income, and in the keeping or preparation, where the Commission deems it necessary or appropriate, of separate or consolidated balance sheets or profit and loss statements for any companies in the same holding-company system.

(b) **Consistency with laws of United States or States.** In the case of the accounts of any company whose methods of accounting are prescribed under the provisions of any law of the United States or of any State, the rules and regulations or orders of the Commission in respect of accounts shall not be inconsistent with the requirements imposed by such law or any rule or regulation thereunder; nor shall anything in this chapter relieve any public-utility company from the duty to keep the accounts, books, records, or memoranda which may be required to be kept by the law of any State in which it operates or by the State Commission of any such State. But this provision shall not prevent the Commission from imposing such additional requirements regarding reports or accounts as it may deem necessary or appro-

priate in the public interest or for the protection of investors or consumers.

(c) **Effective date; classification of persons and matters; hearings.** The rules and regulations of the Commission shall be effective upon publication in the manner which the Commission shall prescribe. For the purpose of its rules, regulations, or orders the Commission may classify persons and matters within its jurisdiction and prescribe different requirements for different classes of persons or matters. Orders of the Commission under this chapter shall be issued only after opportunity for hearing.

(d) **Filing information or documents by reference.** The Commission, by such rules and regulations or order as it deems necessary or appropriate in the public interest or for the protection of investors or consumers, may authorize the filing of any information or documents required to be filed with the Commission under this chapter, or under sections 77a to 77mm, or under sections 78a to 78jj of this title, by incorporating by reference any information or documents theretofore or concurrently filed with the Commission under this chapter or said sections. No provision of this chapter imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule, regulation, or order of the Commission, notwithstanding that such rule, regulation, or order may, after such act or omission, be amended or rescinded or be determined by judicial or other authority to be invalid for any reason. (Aug. 26, 1935, c. 687, Title I, § 20, 49 Stat. 833.)

§ 79u. **Effect on other laws.** Nothing in this chapter shall affect (1) the jurisdiction of the Commission under sections 77a to 77mm or sections 78a to 78jj of this title over any person, security, or contract, or (2) the rights, obligations, duties, or liabilities of any person under such sections; nor shall anything in this chapter affect the jurisdiction of any other commission, board, agency, or officer of the United States or of any State or political subdivision of any State, over any person, security, or contract, insofar as such jurisdiction does not conflict with any provision of this chapter or any rule, regulation, or order thereunder. (Aug. 26, 1935, c. 687, Title I, § 21, 49 Stat. 834.)

§ 79v. **Access of public to information filed with Commission; unlawful disclosure or use of information.** (a) When in the judgment of the Commission the disclosure of such information would be in the public interest or the interest of investors or consumers, the information contained in any statement, application, declaration, report, or other document filed with the Commission shall be available to the public, and copies thereof may be furnished to any person at such reasonable charge and under such reasonable limitations as the Commission may prescribe: *Provided, however,* That nothing in this chapter shall be construed to require, or to authorize the Commission to require, the revealing of trade secrets or processes in any application, declaration, report, or document filed with the Commission under this chapter.

(b) Any person filing such application, declaration, report, or document may make written objection to the public disclosure of information contained therein, stating the grounds for such objection, and the Commission is authorized to hear objections in any such case where it finds it advisable.

(c) It shall be unlawful for any member, officer, or employee of the Commission to disclose to any person other than a member, officer, or employee of the Commission, or to use for personal benefit, any information contained in any application, declaration, report, or document filed with the Commission which is not made available to the public pursuant to this section. (Aug. 26, 1935, c. 687, Title I, § 22, 49 Stat. 834.)

§ 79w. **Annual reports of Commission.** The Commission shall submit annually a report to the Congress covering the work of the Commission for the preceding year and including such information, data, and recommendations for further legislation in connection

with the matters covered by this chapter as it may find advisable. (Aug. 26, 1935, c. 687, Title I, § 23, 49 Stat. 834.)

§ 79x. **Court review of orders.** (a) Any person or party aggrieved by an order issued by the Commission under this chapter may obtain a review of such order in the circuit court of appeals of the United States within any circuit wherein such person resides or has his principal place of business, or in the United States Court of Appeals for the District of Columbia, by filing in such court, within sixty days after the entry of such order, a written petition praying that the order of the Commission be modified or set aside in whole or in part. A copy of such petition shall be forthwith served upon any member of the Commission, or upon any officer thereof designated by the Commission for that purpose, and thereupon the Commission shall certify and file in the court a transcript of the record upon which the order complained of was entered. Upon the filing of such transcript such court shall have exclusive jurisdiction to affirm, modify, or set aside such order, in whole or in part. No objection to the order of the Commission shall be considered by the court unless such objection shall have been urged before the Commission or unless there were reasonable grounds for failure so to do. The findings of the Commission as to the facts, if supported by substantial evidence, shall be conclusive. If application is made to the court for leave to adduce additional evidence, and it is shown to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for failure to adduce such evidence in the proceeding before the Commission, the court may order such additional evidence to be taken before the Commission and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The Commission may modify its findings as to the facts by reason of the additional evidence so taken, and it shall file with the court such modified or new findings, which, if supported by substantial evidence, shall be conclusive, and its recommendation, if any, for the modification or setting aside of the original order. The judgment and decree of the court affirming, modifying, or setting aside, in whole or in part, any such order of the Commission shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in sections 346 and 347 of Title 28.

(b) The commencement of proceedings under subsection (a) shall not, unless specifically ordered by the court, operate as a stay of the Commission's order. (Aug. 26, 1935, c. 687, Title I, § 24, 49 Stat. 834.)

§ 79y. **Jurisdiction of offenses and suits.** The District Courts of the United States, the Supreme Court of the District of Columbia, and the United States courts of any Territory or other place subject to the jurisdiction of the United States shall have jurisdiction of violations of this chapter or the rules, regulations, or orders thereunder, and, concurrently with State and Territorial courts, of all suits in equity and actions at law brought to enforce any liability or duty created by, or to enjoin any violation of, this chapter or the rules, regulations, or orders thereunder. Any criminal proceeding may be brought in the district wherein any act or transaction constituting the violation occurred. Any suit or action to enforce any liability or duty created by, or to enjoin any violation of, this chapter or rules, regulations, or orders thereunder, may be brought in any such district or in the district wherein the defendant is an inhabitant or transacts business, and process in such cases may be served in any district of which the defendant is an inhabitant or transacts business or wherever the defendant may be found. Judgments and decrees so rendered shall be subject to review as provided in sections 225 and 347 of Title 28, and section 7, as amended, of the Act entitled "An Act to establish a court of appeals for the District of Columbia", approved February 9, 1893 (D. C. Code, title 18, sec. 26). No costs shall be assessed for or against the Commis-

sion in any proceeding under this chapter brought by or against the Commission in any court. (Aug. 26, 1935, c. 687, Title I, § 25, 49 Stat. 835.)

**§ 79z. Validity of contracts.** (a) Any condition, stipulation, or provision binding any person to waive compliance with any provision of this chapter or with any rule, regulation, or order thereunder shall be void.

(b) Every contract made in violation of any provision of this chapter or of any rule, regulation, or order thereunder, and every contract heretofore or hereafter made, the performance of which involves the violation of, or the continuance of any relationship or practice in violation of, any provision of this chapter, or any rule, regulation, or order thereunder, shall be void (1) as regards the rights of any person who, in violation of any such provision, rule, regulation, or order, shall have made or engaged in the performance of any such contract, and (2) as regards the rights of any person who, not being a party to such contract, shall have acquired any right thereunder with actual knowledge of the facts by reason of which the making or performance of such contract was in violation of any such provision, rule, regulation, or order.

(c) Nothing in this chapter shall be construed (1) to affect the validity of any loan or extension of credit (or any extension or renewal thereof) made or of any lien created prior or subsequent to the enactment of this chapter, unless at the time of the making of such loan or extension of credit (or extension or renewal thereof) or the creating of such lien, the person making such loan or extension of credit (or extension or renewal thereof) or acquiring such lien shall have actual knowledge of facts by reason of which the making of such loan or extension of credit (or extension or renewal thereof) or the acquisition of such lien is a violation of the provisions of this chapter or any rule or regulation thereunder, or (2) to afford a defense to the collection of any debt or obligation or the enforcement of any lien by any person who shall have acquired such debt, obligation, or lien in good faith for value and without actual knowledge of the violation of any provision of this chapter or any rule or regulation thereunder affecting the legality of such debt, obligation, or lien. (Aug. 26, 1935, c. 687, Title I, § 26, 49 Stat. 835.)

**§ 79z-1. Liability of controlling; preventing compliance with law.** (a) It shall be unlawful for any person, directly or indirectly, to cause to be done any act or thing through or by means of any other person which it would be unlawful for such person to do under the provisions of this chapter or any rule, regulation, or order thereunder.

(b) It shall be unlawful for any person without just cause to hinder, delay, or obstruct the making, filing, or keeping of any information, document, report, record, or account required to be made, filed, or kept under any provision of this chapter or any rule, regulation, or order thereunder. (Aug. 26, 1935, c. 687, Title I, § 27, 49 Stat. 836.)

**§ 79z-2. Representation of guaranty or recommendation by United States.** It shall be unlawful for any person in issuing, selling, or offering for sale any security of a registered holding company or subsidiary company thereof, to represent or imply in any manner whatsoever that such security has been guaranteed, sponsored, or recommended for investment by the United States or any agency or officer thereof. (Aug. 26, 1935, c. 687, Title I, § 28, 49 Stat. 836.)

**§ 79z-3. Penalties.** Any person who willfully violates any provision of this chapter or any rule, regulation, or order thereunder (other than an order of the Commission under subsection (b), (d), (e), or (f) of section 79k of this title), or any person who willfully makes any statement or entry in any application, report, document, account, or record filed or kept or required to be filed or kept under the provisions of this chapter or any rule, regulation, or order thereunder, knowing such statement or entry to be false or misleading in any material respect, or any person who willfully destroys (except after such time as may be prescribed under any rules or regula-

tions under this chapter), mutilates, alters, or by any means or device falsifies any account, correspondence, memorandum, book, paper, or other record kept or required to be kept under the provisions of this chapter or any rule, regulation, or order thereunder, shall upon conviction be fined not more than \$10,000 or imprisoned not more than two years, or both, except that in the case of a violation of a provision of subsection (a) or (b) of section 79d of this title by a holding company which is not an individual, the fine imposed upon such holding company shall be a fine not exceeding \$200,000; but no person shall be convicted under this section for the violation of any rule, regulation, or order if he proves that he had no knowledge of such rule, regulation, or order. (Aug. 26, 1935, c. 687, Title I, § 29, 49 Stat. 836.)

**§ 79z-4. Study of public-utility and investment companies; report and recommendation.** The Commission is authorized and directed to make studies and investigations of public-utility companies, the territories served or which can be served by public-utility companies, and the manner in which the same are or can be served, to determine the sizes, types, and locations of public-utility companies which do or can operate most economically and efficiently in the public interest, in the interest of investors and consumers, and in furtherance of a wider and more economical use of gas and electric energy; upon the basis of such investigations and studies the Commission shall make public from time to time its recommendations as to the type and size of geographically and economically integrated public-utility systems which, having regard for the nature and character of the locality served, can best promote and harmonize the interests of the public, the investor, and the consumer. The Commission is authorized and directed to make a study of the functions and activities of investment trusts and investment companies, the corporate structures, and investment policies of such trusts and companies, the influence exerted by such trusts and companies upon companies in which they are interested, and the influence exerted by interests affiliated with the management of such trusts and companies upon their investment policies, and to report the results of its study and its recommendations to the Congress on or before January 4, 1937. (Aug. 26, 1935, c. 687, Title I, § 30, 49 Stat. 837.)

**§ 79z-5. Employees of Commission; appointment and compensation.** For the purposes of this chapter, the Commission may select, employ, and fix the compensation of such attorneys, examiners, and other experts as shall be necessary for the transaction of the business of the Commission in respect of this chapter without regard to the provisions of other laws applicable to the employment and compensation of officers or employees of the United States; and the Commission may, subject to the civil-service laws, appoint such other officers and employees as are necessary in the execution of the functions of the Commission and fix their salaries in accordance with sections 661 to 674 of Title 5. (Aug. 26, 1935, c. 687, Title I, § 31, 49 Stat. 837.)

**§ 79z-6. Separability clause.** If any provision of this chapter or the application of such provision to any person or circumstances shall be held invalid, the remainder of the chapter and the application of such provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby. (Aug. 26, 1935, c. 687, Title I, § 32, 49 Stat. 837.)

## Chapter 5.—THE BUREAU OF FOREIGN AND DOMESTIC COMMERCE

**§ 189a. Sale of lists of foreign buyers, new bulletins, reports, etc.; charges; disposition of receipts.**

Repeated, Act Mar. 22, 1935, c. 38, § 1, 49 Stat. 89.

**§ 198. Purchases of supplies and equipment and procurement of services; open market.**

Repeated, Act Mar. 22, 1935, c. 39, § 1, 49 Stat. 89.



## Chapter 9.—THE WEATHER BUREAU

## § 319. Printing.

Repeated, Act May 17, 1935, c. 131, Title I, § 1, 49 Stat. 89

## Chapter 14.—RECONSTRUCTION FINANCE CORPORATION ACT AND EMERGENCY RELIEF AND CONSTRUCTION ACT OF 1932

## § 601. Reconstruction Finance Corporation; creation; office and branches; citation of act.

Further extension of authority of Corporation, see section 601b of this title.

## § 601a. Same; extension of authority of Corporation; postponement of time for liquidation.

Further extension of authority of Corporation, see section 601b of this title

§ 601b. Same; further extension of authority of Corporation; further postponement of time for liquidation. Until February 1, 1937, or such earlier date as the President may fix by proclamation, the Reconstruction Finance Corporation is authorized to continue to perform all functions which it is authorized to perform under law, and the liquidation and winding up of its affairs as provided for by section 613 of this title are postponed during the period that the functions of the Corporation are continued pursuant to this section. (Jan. 31, 1935, c. 2, § 1, 49 Stat. 1.)

## § 603. Directors, officers and employees.

Limitation on salaries of officers and employees, see section 603a of this title.

§ 603a. Same; salaries of officers and employees. No officer or employee of the Reconstruction Finance Corporation shall receive salary at a rate in excess of \$10,000 per annum, except that in the case of any position the salary of which on January 31, 1935, is at the rate of \$12,500 per annum such salary may continue at such rate. (Jan. 31, 1935, c. 2, § 1, 49 Stat. 1.)

## § 604a. Loans and advances by Corporation; time limit on disbursement of funds under commitment.

See section 604b of this title.

§ 604b. Same; further limitation on disbursement of funds under commitment. (a) Except as provided in section 606b of this title, and in section 412 of Title 40, no funds shall be disbursed on any commitment or agreement made after January 31, 1935, by the Reconstruction Finance Corporation to make a loan or advance, subscribe for stock, or purchase capital notes or debentures, after the expiration of one year from the date of such commitment or agreement; but within the period of such one year limitation no provision of law terminating any of the functions of the Reconstruction Finance Corporation shall be construed to prohibit disbursement of funds on commitments or agreements to make loans or advances, subscribe for preferred stock, or purchase capital notes or debentures.

(b) Notwithstanding any other provision of law, disbursement may be made at any time prior to January 31, 1936, on any commitment or agreement made prior to January 31, 1935, by the Corporation to make a loan or advance, subscribe for preferred stock, or purchase capital notes or debentures. (Jan. 31, 1935, c. 2, § 2, 49 Stat. 2.)

## § 605. Loans and advances by Corporation; allocation; security; form; limitation on amount; period of loan; fees and commissions.

Each such loan may be made for a period not exceeding three years, and the corporation may from time to time extend the time of payment of any such loan, through renewal, substitution of new obligations, or otherwise, but the time for such payment shall not be extended beyond five years from the date upon which such loan was made originally. The corporation may make loans under this section at any time prior to the expiration of one year from January 22, 1932; and the President may from time to time

postpone such date of expiration for such additional period or periods as he may deem necessary, not to exceed two years from January 22, 1932. Within the foregoing limitations of this section, the Corporation, notwithstanding any limitation of law as to maturity, with the approval of the Interstate Commerce Commission, including approval of the price to be paid, may, to aid in the financing, reorganization, consolidation, maintenance, or construction thereof, purchase for itself, or for account of a railroad obligated thereon, the obligations of railroads engaged in interstate commerce, including equipment trust certificates, or guarantee the payment of the principal of, and/or interest on, such obligations, including equipment trust certificates, or, when, in the opinion of the Corporation, funds are not available on reasonable terms through private channels, make loans, upon full and adequate security, to such railroads or to receivers or trustees thereof for the purposes aforesaid: *Provided*, That in the case of loans to or the purchase or guarantee of obligations, including equipment trust certificates, of railroads not in receivership or trusteeship, the Interstate Commerce Commission shall, in connection with its approval thereof, also certify that such railroad, on the basis of present and prospective earnings, may reasonably be expected to meet its fixed charges, without a reduction thereof through judicial reorganization, except that such certificate shall not be required in case of such loans made for the maintenance of, or purchase of equipment for, such railroads: *And provided further*, That for the purpose of determining the general funds of the Corporation available for further loans or commitments, such guarantees shall, to the extent of the principal amount of the obligations guaranteed, be interpreted as loans or commitments for loans: *Provided further*, That the total amount of loans and commitments to railroads, receivers, and trustees, and purchases and guarantees of obligations of railroads, under this paragraph shall not exceed at any one time \$350,000,000, in addition to loans and commitments made prior to January 13, 1935, and renewals of loans and commitments so made: *Provided*, That no fee or commission shall be paid by any applicant for a loan under the provisions hereof in connection with any such application or any loan made or to be made hereunder, and the agreement to pay or payment of any such fee or commission shall be unlawful. Any such railroad may obligate itself in such form as shall be prescribed and otherwise comply with the requirements of the Interstate Commerce Commission and the corporation with respect to the deposit or assignment of security hereunder, without the authorization or approval of any authority. State or Federal, and without compliance with any requirement, State or Federal, as to notification, other than such as may be imposed by the Interstate Commerce Commission and the corporation under the provisions of this section. (As amended Jan. 13, 1935, c. 2, § 4, 49 Stat. 2.)

\* \* \* \* \*  
Maturity of loans to railroads, see section 605m of this title

## § 605e. Purchase of preferred stock of insurance companies; limitation on amount of preferred stock and loans.

This section is amended by Act Jan. 31, 1935, c. 2, § 8, 49 Stat. 4, by striking from the last sentence thereof “\$50,000,000” and inserting in lieu thereof “\$75,000,000.”

§ 605k. Additional loans authorized to non-profit organizations; repair of damage caused by floods, etc.; collateral. The Reconstruction Finance Corporation is authorized and empowered, through such existing agency or agencies as it may designate, to make loans to nonprofit corporations, with or without capital stock, organized for the purpose of financing the acquisition of home or building sites in replacement of sites formerly occupied by buildings where such sites are declared by public authority to be unsafe by reason of flood, danger of flood, or earthquake, and for the purpose of financing the repair or construction of buildings or structures, or water, irrigation, gas, electric, sewer, drainage, flood-control, communi-

cation, or transportation systems, damaged or destroyed by earthquake, conflagration, tornado, cyclone, or flood in the years 1933, 1934, 1935, and 1936, and deemed by the Reconstruction Finance Corporation to be economically useful or necessary. (As amended July 26, 1935, c. 421, 49 Stat. 505.)

\* \* \* \* \*

Act July 26, 1935, amended first paragraph of section by striking out the words "year 1933, and in the months of January and February, 1934" and inserting in lieu thereof the words "years 1933, 1934, 1935, and 1936"

**§ 605l. Substitution of bonds or other evidences of indebtedness.** In all cases where the Reconstruction Finance Corporation shall hold any bonds or other evidences of indebtedness of any borrower under paragraph (a) of section 605b of this title, whether heretofore or hereafter acquired, and such borrower shall be able and willing to substitute or cause to be substituted therefor any other bonds or other evidences of indebtedness, whether of the same or longer maturities or otherwise differing, which, in the judgment of said Reconstruction Finance Corporation, are more desirable than those so held, the said Reconstruction Finance Corporation is authorized to accept such bonds or other evidences of indebtedness, in exchange and substitution for such bonds or other evidences of indebtedness so held by it, upon such terms and conditions as may be agreed upon with such borrower at the time of, or in contemplation of, such exchange and substitution. (Jan. 31, 1935, c. 2, § 11, 49 Stat. 5.)

**§ 605m. Maturity of obligations; loans to railroads.** Notwithstanding any other provision of law limiting the maturity of obligations taken by it to shorter periods, the Reconstruction Finance Corporation may make loans or advances or renewals or extensions thereof to authorized borrowers or by other suitable agreement permit them to run so as to mature at such time or times as the Corporation may determine, not later than January 31, 1945: *Provided*, That in respect of loans or renewals or extensions of loans or purchases of obligations under section 605 of this title, to or of railroads, the Corporation may require as a condition of making any such loan or renewal or extension for a period longer than five years, or purchasing any such obligation maturing later than five years from the date of purchase by the Corporation, that such arrangements be made for the reduction or amortization of the indebtedness of the railroad, either in whole or in part, as may be approved by the Corporation after the prior approval of the Interstate Commerce Commission. (Jan. 31, 1935, c. 2, § 3, 49 Stat. 2.)

**§ 606a. Loans on as purchase of assets of closed financial institutions; securities of Federal Deposit Insurance Corporation.**

This section is amended by Act Jan. 31, 1935, c. 2, § 6, 49 Stat. 3, (1) by inserting in the first sentence thereof after the words "the assets" and before the words "of any bank", the following: ", or any portion thereof,"; and (2) by inserting in the second sentence thereof after the words "such assets" and before the words "held for the benefit" the following: ", or any portion thereof,".

**§ 606b. Loans to industrial and commercial business; terms and conditions; limitation on time for making loans.** For the purpose of maintaining and increasing the employment of labor, when credit at prevailing bank rates for the character of loans applied for is not otherwise available at banks, the Corporation is authorized and empowered to make loans to any industrial or commercial business, which shall include the fishing industry, and to any institution, now or hereafter established, financing principally the sale of electrical, plumbing or air conditioning appliances or equipment or other household appliances, both urban and rural. Such loans shall, in the opinion of the board of directors of the Corporation, be so secured as reasonably to assure repayment of the loans, may be made directly, or in cooperation with banks or other lending institutions, or by the purchase of participations, shall mature not

later than January 31, 1945, shall be made only when deemed to offer reasonable assurance of continued or increased employment of labor, shall be made only when, in the opinion of the board of directors of the Corporation, the borrower is solvent, shall not exceed \$300,000,000 in aggregate amount at any one time outstanding, and shall be subject to such terms, conditions, and restrictions as the board of directors of the Corporation may determine. The power to make loans given herein shall terminate on January 31, 1937, or on such earlier date as the President shall by proclamation fix; but no provision of law terminating any of the functions of the Corporation shall be construed to prohibit disbursement of funds on loans and commitments, or agreements to make loans, made under this section prior to January 31, 1937, or such earlier date. (As amended Jan. 31, 1935, c. 2, § 10, 49 Stat. 4.)

**§ 606d. Loans to aid mining, milling and smelting industry.** The Reconstruction Finance Corporation is authorized and empowered to make loans upon sufficient security to recognized and established corporations, individuals, and partnerships engaged in the business of mining, milling, or smelting ores. The Reconstruction Finance Corporation is authorized and empowered also to make loans to corporations, individuals, and partnerships engaged in the development of a quartz ledge, or vein, or other ore body, or placer deposit, containing gold, silver, or tin, or gold and silver, when, in the opinion of the Reconstruction Finance Corporation, there is sufficient reason to believe that, through the use of such loan in the development of a lode, ledge, or vein, or mineral deposit, or placer gravel deposit, there will be developed a sufficient quantity of ore, or placer deposits of a sufficient value to pay a profit upon mining operations: *Provided*, That not to exceed \$20,000 shall be loaned to any corporation, individual, or partnership, for such development purposes: *Provided further*, That there shall not be allocated or made available for such development loans a sum in excess of \$10,000,000. (As amended Jan. 31, 1935, c. 2, § 14, 49 Stat. 5.)

**§ 606i. Subscription for and loans on nonassessable stock of national mortgage association or similar institution.** To assist in the reestablishment of a normal mortgage market, the Reconstruction Finance Corporation may, with the approval of the President, subscribe for or make loans upon the nonassessable stock of any class of any national mortgage association organized under sections 1716 to 1723 of Title 12 and of any mortgage loan company, trust company, savings and loan association, or other similar financial institution, now or hereafter incorporated under the laws of the United States, or of any State, or of the District of Columbia, the principal business of which institution is that of making loans upon mortgages, deeds of trust, or other instruments conveying, or constituting a lien upon, real estate or any interest therein. In any case in which, under the laws of its incorporation, such financial institution is not permitted to issue nonassessable stock, the Reconstruction Finance Corporation is authorized, for the purposes of this section, to purchase the legally issued capital notes or debentures of such financial institutions. The total face amount of loans outstanding, nonassessable stock subscribed for, and capital notes and debentures purchased and held by the Reconstruction Finance Corporation, under this section, shall not exceed at any one time \$100,000,000. Notwithstanding any other provision of law, the Reconstruction Finance Corporation may, under such rules and regulations as it may prescribe (which regulations shall include at least sixty days' notice of any proposed sale to the issuer or maker), sell, at public or private sale, the whole or any part of the stock, capital notes, or debentures acquired by the Corporation pursuant to this section, and the preferred stock, capital notes, or debentures acquired pursuant to any other provision of law. The amount of notes, bonds, debentures, and other such obligations which the Reconstruction



Finance Corporation is authorized and empowered to issue and to have outstanding at any one time under existing law is hereby increased by an amount sufficient to carry out the provisions of this section. (Jan. 22, 1932, c. 8, § 5c, as added Jan. 31, 1935, c. 2, § 5, 49 Stat. 3.)

**§ 606j. Loans to public-school districts and other public-school authorities; purpose; terms; appraisal of ability to repay; application of proceeds.** The Reconstruction Finance Corporation is authorized and empowered to make loans out of the funds of the Corporation in an aggregate amount not exceeding \$10,000,000 to or for the benefit of tax-supported public-school districts or other similar public-school authorities in charge of public schools, organized pursuant to the laws of the several States, Territories, and the District of Columbia. Such aggregate amount shall be allocated equitably among the several States and Territories, and the District of Columbia, on the basis of demonstrated need. Such loans shall be made for the purpose of enabling any such district or authority which, or any State, municipality, or other public body which, is authorized to incur indebtedness for the benefit of public schools (herein referred to as the "borrower") to reduce and refinance outstanding indebtedness or obligations which have been incurred prior to August 24, 1935 for the purpose of financing the construction, operation and/or maintenance of public-school facilities.

Such loans shall be subject to the same terms and conditions as loans made under section 605 of this title, except that (1) the term of any such loans shall not exceed thirty-three years; (2) each such loan shall, in the opinion of the Corporation, be reasonably and adequately secured, and, in respect to the type of security, shall be secured (a) by bonds, notes, or other obligations for the payment of which shall be pledged the full faith and credit and taxing power of the borrower or of such taxing authority as may be authorized pursuant to State law to levy assessments, taxes, or other charges for the benefit of public schools, and/or (b) by bonds, notes, or other obligations which are a lien on real property of the borrower, and/or (c) by such other collateral as may be acceptable to the Corporation; (3) the borrower shall agree not to issue during the term of the loan any other obligations so secured, and insofar as it may lawfully do so, shall agree not to assume during such term any further indebtedness for the benefit of public schools, except with the consent of the Corporation; (4) the borrower shall agree, insofar as it may lawfully do so, that so long as any part of such loan shall remain unpaid the borrower will in each year apply to the repayment of such loan or to the purchase or redemption of the obligations issued to evidence such loan, an amount equal to the amount by which the assessments, taxes and other funds received by it for the benefit of public schools exceeds (a) the cost of operation and maintenance of the public-school facilities which are financed in whole or in part by such amount of assessments, taxes or other charges, received by it; (b) the debt charges on its outstanding obligations; and (c) provisions for such reasonable reserves as may be approved by the Corporation.

No loan shall be made under this section until the Corporation (a) has caused an appraisal to be made of the taxpaying ability of the taxing district or other territory throughout which assessments, taxes, or other charges are authorized to be levied for the purpose of paying the costs of, or for the purpose of securing funds to repay indebtedness incurred to finance the construction, operation, and/or maintenance of the public-school facilities on account of which the indebtedness was incurred or obligations assumed which are to be reduced and refinanced in connection with a loan from the Corporation made under this section; (b) has been satisfied that an agreement has been entered into with the holders of outstanding bonds, notes, and/or other obligations

incurred by or for the benefit of the tax-supported public-school district or other similar public-school authority in charge of public schools which indebtedness or obligations are to be reduced and refinanced in connection with a loan from the Corporation, under which agreement it will be possible to purchase, reduce, or refund all or a major portion of the aggregate of outstanding indebtedness and obligations incurred by or on behalf of such district or authority at a price determined by the Corporation to be reasonable after taking into consideration the average market price of the evidences of the indebtedness or obligations to be reduced and refinanced over the six months' period ending January 1, 1935, and under which a substantial reduction will be brought about in the aggregate of such outstanding indebtedness and obligations; and (c) has determined, in view of such appraisal of taxpaying ability and of such substantial reduction in the aggregate of such outstanding indebtedness and obligations, that the operation of the public-school facilities to refinance indebtedness or obligations incurred for the benefit of which a loan from the Corporation is applied for under this section, is economically sound and will promote the general welfare of the community.

When any loan is authorized pursuant to the provisions of this section and it shall then or thereafter appear that repairs and necessary extensions or improvements to the public-school facilities, to refinance the indebtedness or obligations incurred for the benefit of which such loan is authorized, are necessary or desirable for the further assurance of the ability of the borrower to repay such loan, the Corporation, within the limitation as to total amount provided in this section, may make an additional loan or loans to such borrower for such purposes.

The proceeds of any loan applied for by a borrower under this section may be paid either to such borrower or to the holders or representatives of the holders of the bonds, notes, and/or other obligations to be reduced and refinanced in connection with such loan, and such loans may be made upon promissory notes collateralized by such bonds, notes, and/or other obligations, or through the purchase of securities issued or to be issued by such borrower. (Aug. 24, 1935, c. 646, § 1, 49 Stat. 796.)

**§ 606k. Same; limitation on authority to make loan.** No loan shall be made by the Corporation under section 606j of this title where any part of the proceeds of such loan are to be used for purposes authorized by section 606f of this title. (Aug. 24, 1935, c. 646, § 2, 49 Stat. 798.)

**§ 607a. Receipts from sale of securities; use as general funds.** Notwithstanding any other provision of law, the Reconstruction Finance Corporation is authorized and empowered to use as general funds all receipts arising from the sale or retirement of any of the stock, notes, bonds, or other securities acquired by it pursuant to any provision of law. (Jan. 31, 1935, c. 2, § 13, 49 Stat. 5.)

**§ 613. Liquidation of corporation by directors; when authorized; manner.**

Further postponement of time for liquidation, see section 613b of this title

**§ 613a. Same; postponement of time for liquidation.**

Further postponement of time for liquidation, see section 613b of this title.

**§ 613b. Same; further postponement of time for liquidation.** Until February 1, 1937, or such earlier date as the President may fix by proclamation, the Reconstruction Finance Corporation is authorized to continue to perform all functions which it is authorized to perform under law, and the liquidation and winding up of its affairs as provided for by section 613 of this title are postponed during the period that the functions of the Corporation are continued pursuant to this section. (Jan. 31, 1935, c. 2, § 1, 49 Stat. 1.)

## Chapter 15.—INDUSTRIAL RECOVERY

### § 702. Administrative agencies.

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#### (c) Duration of law.

Subdivision (c) of this section is amended by Act June 14, 1935, c. 246, § 1, 49 Stat. 375, by striking out "at the expiration of two years after June 16, 1933", and inserting in lieu thereof "on April 1, 1936."

### § 703. Codes of fair competition.

Act June 14, 1935, c. 246, § 2, 49 Stat. 375, provided in part as follows: "All the provisions of Title I of the National Industrial Recovery Act delegating power to the President to approve or prescribe codes of fair competition and providing for the enforcement of such codes are hereby repealed."

§ 705a. Limitation an exemption provided in section 705. The exemption provided in section 705 shall extend only to agreements and action thereunder (1) putting into effect the requirements of section 706 (a), including minimum wages, maximum hours, and prohibition of child labor; and (2) prohibiting unfair competitive practices which offend against existing law, including the antitrust laws, or which constitute unfair methods of competition under sections 41 to 51 of this title. (June 14, 1935, c. 246, § 2, 49 Stat. 375.)

## Chapter 15A.—INTERSTATE TRANSPORTATION OF PETROLEUM PRODUCTS

Sec

- 715 Purpose of chapter
- 715a Definitions
- 715b Interstate transportation of contraband oil forbidden.
- 715c Suspension of operation of section 715b
- 715d Rules and regulations, certificates of clearance; issuance by boards; review of denial of certificate by board
- 715e Penalties for violation of chapter
- 715f Forfeiture of contraband oil shipped in violation of law; procedure.
- 715g Refusal of carrier to accept shipment without certificate of clearance, certificate as justifying acceptance of shipment
- 715h Hearings and investigation by boards, appointment of board and employees
- 715i Restraining violations, civil and criminal proceedings, jurisdiction of District Courts, review
- 715j. "President" as including agencies, officers and employees.
- 715k Saving clause
- 715l Duration of law

§ 715. Purpose of chapter. It is hereby declared to be the policy of Congress to protect interstate and foreign commerce from the diversion and obstruction of, and the burden and harmful effect upon, such commerce caused by contraband oil as herein defined, and to encourage the conservation of deposits of crude oil situated within the United States. (Feb. 22, 1935, c. 18, § 1, 49 Stat. 30.)

#### § 715a. Definitions. As used in this chapter—

(1) The term "contraband oil" means petroleum which, or any constituent part of which, was produced, transported, or withdrawn from storage in excess of the amounts permitted to be produced, transported, or withdrawn from storage under the laws of a State or under any regulation or order prescribed thereunder by any board, commission, officer, or other duly authorized agency of such State, or any of the products of such petroleum.

(2) The term "products" or "petroleum products" includes any article produced or derived in whole or in part from petroleum or any product thereof by refining, processing, manufacturing, or otherwise.

(3) The term "interstate commerce" means commerce between any point in a State and any point outside thereof, or between points within the same State but through any place outside thereof, or from any place in the United States to a foreign country, but only insofar as such commerce takes place within the United States.

(4) The term "person" includes an individual, partnership, corporation, or joint-stock company. (Feb. 22, 1935, c. 18, § 2, 49 Stat. 30.)

§ 715b. Interstate transportation of contraband oil forbidden. The shipment or transportation in interstate commerce from any State of contraband oil produced in such State is hereby prohibited. For the

purposes of this section contraband oil shall not be deemed to have been produced in a State if none of the petroleum constituting such contraband oil, or from which it was produced or derived, was produced, transported, or withdrawn from storage in excess of the amounts permitted to be produced, transported, or withdrawn from storage under the laws of such State or under any regulation or order prescribed thereunder by any board, commission, officer, or other duly authorized agency of such State. (Feb. 22, 1935, c. 18, § 3, 49 Stat. 31.)

§ 715c. Suspension of operation of section 715b. Whenever the President finds that the amount of petroleum and petroleum products moving in interstate commerce is so limited as to be the cause, in whole or in part, of a lack of parity between supply (including imports and reasonable withdrawals from storage) and consumptive demand (including exports and reasonable additions to storage) resulting in an undue burden on or restriction of interstate commerce in petroleum and petroleum products, he shall by proclamation declare such finding, and thereupon the provisions of section 715b shall be inoperative until such time as the President shall find and by proclamation declare that the conditions which gave rise to the suspension of the operation of the provisions of such section no longer exist. If any provision of this section or the application thereof shall be held to be invalid, the validity or application of section 715b shall not be affected thereby. (Feb. 22, 1935, c. 18, § 4, 49 Stat. 31.)

§ 715d. Rules and regulations; certificates of clearance; issuance by boards; review of denial of certificate by board. (a) The President shall prescribe such regulations as he finds necessary or appropriate for the enforcement of the provisions of this chapter, including but not limited to regulations requiring reports, maps, affidavits, and other documents relating to the production, storage, refining, processing, transporting, or handling of petroleum and petroleum products, and providing for the keeping of books and records, and for the inspection of such books and records and of properties and facilities.

(b) Whenever the President finds it necessary or appropriate for the enforcement of the provisions of this chapter he shall require certificates of clearance for petroleum and petroleum products moving or to be moved in interstate commerce from any particular area, and shall establish a board or boards for the issuance of such certificates. A certificate of clearance shall be issued by a board so established in any case where such board determines that the petroleum or petroleum products in question does not constitute contraband oil. Denial of any such certificate shall be by order of the board, and only after reasonable opportunity for hearing. Whenever a certificate of clearance is required for any area in any State, it shall be unlawful to ship or transport petroleum or petroleum products in interstate commerce from such area unless a certificate has been obtained therefor.

(c) Any person whose application for a certificate of clearance is denied may obtain a review of the order denying such application in the United States District Court for the district wherein the board is sitting by filing in such court within thirty days after the entry of such order a written petition praying that the order of the board be modified or set aside, in whole or in part. A copy of such petition shall be forthwith served upon the board, and thereupon the board shall certify and file in the court a transcript of the record upon which the order complained of was entered. Upon the filing of such transcript, such court shall have jurisdiction to affirm, modify, or set aside such order, in whole or in part. No objection to the order of the board shall be considered by the court unless such objection shall have been urged before the board. The finding of the board as to the facts, if supported by evidence, shall be conclusive. The judgment and decree of the court shall be final, subject to review as provided in sections 225 and 347 of Title 28. (Feb. 22, 1935, c. 18, § 5, 49 Stat. 31.)

**§ 715e. Penalties for violation of chapter.** Any person knowingly violating any provision of this chapter or any regulation prescribed thereunder shall upon conviction be punished by a fine of not to exceed \$2,000 or by imprisonment for not to exceed six months, or by both such fine and imprisonment. (Feb. 22, 1935, c. 18, § 6, 49 Stat. 32.)

**§ 715f. Forfeiture of contraband oil shipped in violation of law; procedure.** (a) Contraband oil shipped or transported in interstate commerce in violation of the provisions of this chapter shall be liable to be proceeded against in any district court of the United States within the jurisdiction of which the same may be found, and seized for forfeiture to the United States by a process of libel for condemnation; but in any such case the court may in its discretion, and under such terms and conditions as it shall prescribe, order the return of such contraband oil to the owner thereof where undue hardship would result from such forfeiture. The proceedings in such cases shall conform as nearly as may be to proceedings in rem in admiralty, except that either party may demand a trial by jury of any issue of fact joined in any such case, and all such proceedings shall be at the suit of and in the name of the United States. Contraband oil forfeited to the United States as provided in this section shall be used or disposed of pursuant to such rules and regulations as the President shall prescribe.

(b) No such forfeiture shall be made in the case of contraband oil owned by any person (other than a person shipping such contraband oil in violation of the provisions of this chapter) who has with respect to such contraband oil a certificate of clearance which on its face appears to be valid and to have been issued by a board created under authority of section 715d, certifying that the shipment in question is not contraband oil, and such person had no reasonable ground for believing such certificate to be invalid or to have been issued as a result of fraud or misrepresentation of fact. (Feb. 22, 1935, c. 18, § 7, 49 Stat. 32.)

**§ 715g. Refusal of carrier to accept shipment without certificate of clearance; certificate as justifying acceptance of shipment.** No common carrier who shall refuse to accept petroleum or petroleum products from any area in which certificates of clearance are required under authority of this chapter, by reason of the failure of the shipper to deliver such a certificate to such carrier, or who shall refuse to accept any petroleum or petroleum products when having reasonable ground for believing that such petroleum or petroleum products constitute contraband oil, shall be liable on account of such refusal for any penalties or damages. No common carrier shall be subject to any penalty under section 715e in any case where (1) such carrier has a certificate of clearance which on its face appears to be valid and to have been issued by a board created under authority of section 715d, certifying that the shipment in question is not contraband oil, and such carrier had no reasonable ground for believing such certificate to be invalid or to have been issued as a result of fraud or misrepresentation of fact, or (2) such carrier, as respects any shipment originating in any area where certificates of clearance are not required under authority of this chapter, had no reasonable ground for believing such petroleum or petroleum products to constitute contraband oil. (Feb. 22, 1935, c. 18, § 8, 49 Stat. 32.)

**§ 715h. Hearings and investigation by boards; appointment of board and employees.** (a) Any board established under authority of section 715d, and any agency designated under authority of section 715j, may hold and conduct such hearings, investigations, and proceedings as may be necessary for the purposes of this chapter, and for such purposes those provisions of section 78u of this title relating to the administering of oaths and affirmations, and to the attendance and testimony of witnesses and the production of evidence (including penalties), shall apply.

(b) The members of any board established under authority of section 715d shall be appointed by the

President, without regard to the civil service laws but subject to sections 661 to 674 of Title 5; and any such board may appoint, without regard to the civil service laws but subject to sections 661 to 674 of Title 5, such employees as may be necessary for the execution of its functions under this chapter. (Feb. 22, 1935, c. 18, § 9, 49 Stat. 33.)

**§ 715i. Restraining violations; civil and criminal proceedings; jurisdiction of District Courts; review.** (a) Upon application of the President, by the Attorney General, the United States District Courts shall have jurisdiction to issue mandatory injunctions commanding any person to comply with the provisions of this chapter or any regulation issued thereunder.

(b) Whenever it shall appear to the President that any person is engaged or about to engage in any acts or practices that constitute or will constitute a violation of any provision of this chapter or of any regulation thereunder, he may in his discretion, by the Attorney General, bring an action in the proper United States District Court to enjoin such acts or practices, and upon a proper showing a permanent or temporary injunction or restraining order shall be granted without bond.

(c) The United States District Courts shall have exclusive jurisdiction of violations of this chapter or the regulations thereunder, and of all suits in equity and actions at law brought to enforce any liability or duty created by, or to enjoin any violation of, this chapter or the regulations thereunder. Any criminal proceeding may be brought in the district wherein any act or transaction constituting the violation occurred. Any suit or action to enforce any liability or duty created by this chapter or regulations thereunder, or to enjoin any violation of this chapter or any regulations thereunder, may be brought in any such district or in the district wherein the defendant is found or is an inhabitant or transacts business, and process in such cases may be served in any other district of which the defendant is an inhabitant or wherever the defendant may be found. Judgments and decrees so rendered shall be subject to review as provided in sections 225 and 347 of Title 28. (Feb. 22, 1935, c. 18, § 10, 49 Stat. 33.)

**§ 715j. "President" as including agencies, officers and employees.** Wherever reference is made in this chapter to the President such reference shall be held to include, in addition to the President, any agency, officer, or employee who may be designated by the President for the execution of any of the powers and functions vested in the President under this chapter. (Feb. 22, 1935, c. 18, § 11, 49 Stat. 33.)

**§ 715k. Saving clause.** If any provision of this chapter, or the application thereof to any person or circumstance, shall be held invalid, the validity of the remainder of the chapter and the application of such provision to other persons or circumstances shall not be affected thereby. (Feb. 22, 1935, c. 18, § 12, 49 Stat. 33.)

**§ 715l. Duration of law.** This chapter shall cease to be in effect on June 16, 1937. (Feb. 22, 1935, c. 18, § 13, 49 Stat. 33.)

## Chapter 16.—FEDERAL EMERGENCY RELIEF ACT OF 1933

### § 723. Federal Emergency Relief Administration.

Extension of duration of chapter, see section 10 of the Emergency Relief Appropriation Act of 1935, set out in note to section 728 of this title.

### § 728. Short title.

#### EMERGENCY RELIEF APPROPRIATION ACT OF 1935

Act Apr. 8, 1935, 4 p m, c. 48, 49 Stat. 115, provided as follows:

"That in order to provide relief, work relief and to increase employment by providing for useful projects, there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to be used in the discretion and under the direction of the President, to be immediately available and to remain available until June 30, 1937, the sum of \$4,000,000,000, together with the separate funds established for particular areas by proclamation of the

President pursuant to section 15 (f) of the Agricultural Adjustment Act (but any amounts thereof shall be available for use only for the area for which the fund was established); not exceeding \$500,000,000 in the aggregate of any savings or unexpended balances in funds of the Reconstruction Finance Corporation; and not exceeding a total of \$380,000,000 of such unexpended balances as the President may determine are not required for the purposes for which authorized, of the following appropriations, namely: The appropriation of \$3,300,000,000 for national industrial recovery contained in the Fourth Deficiency Act, fiscal year 1933, approved June 16, 1933 (48 Stat. 274); the appropriation of \$950,000,000 for emergency relief and civil works contained in the Act approved February 15, 1934 (48 Stat. 351); the appropriation of \$899,675,000 for emergency relief and public works, and the appropriation of \$525,000,000 to meet the emergency and necessity for relief in stricken agricultural areas, contained in the Emergency Appropriation Act, fiscal year 1935, approved June 19, 1934 (48 Stat. 1055), and any remainder of the unobligated moneys referred to in section 4 of the Act approved March 31, 1933 (48 Stat. 22). Provided, That except as to such part of the appropriation made herein as the President may deem necessary for continuing relief as authorized under the Federal Emergency Relief Act of 1933, as amended, or for restoring to the Federal Emergency Administration of Public Works any sums which after December 28, 1934, were, by order of the President impounded or transferred to the Federal Emergency Relief Administration from appropriations heretofore made available to such Federal Emergency Administration of Public Works (which restoration is hereby authorized), this appropriation shall be available for the following classes of projects, and the amounts to be used for each class shall not, except as hereinafter provided, exceed the respective amounts stated, namely: (a) Highways, roads, streets, and grade-crossing elimination, \$800,000,000; (b) rural rehabilitation and relief in stricken agricultural areas, and water conservation, transmountain water diversion and irrigation and reclamation, \$500,000,000; (c) rural electrification, \$100,000,000; (d) housing, \$450,000,000; (e) assistance for educational, professional and clerical persons, \$300,000,000; (f) Civilian Conservation Corps, \$600,000,000; (g) loans or grants, or both, for projects of States, Territories, Possessions, including subdivisions and agencies thereof, municipalities, and the District of Columbia, and self-liquidating projects of public bodies thereof, where, in the determination of the President, not less than twenty-five per centum of the loan or the grant, or the aggregate thereof, is to be expended for work under each particular project, \$900,000,000; (h) sanitation, prevention of soil erosion, prevention of stream pollution, sea-coast erosion, reforestation, forestation, flood control, rivers and harbors and miscellaneous projects, \$350,000,000: Provided further, That not to exceed 20 per centum of the amount herein appropriated may be used by the President to increase any one or more of the foregoing limitations if he finds it necessary to do so in order to effectuate the purpose of this joint resolution: Provided further, That no part of the appropriation made by this joint resolution shall be expended for munitions, warships, or military or naval materiel, but this proviso shall not be construed to prevent the use of such appropriation for new buildings, reconstruction of buildings and other improvements in military or naval reservations, posts, forts, camps, cemeteries, or fortified areas, or for projects for nonmilitary or nonnaval purposes in such places.

"Except as hereinafter provided, all sums allocated from the appropriation made herein for the construction of public highways and other related projects (except within or adjacent to national forests, national parks, national parkways, or other Federal reservations) shall be apportioned by the Secretary of Agriculture in the manner provided by section 204 (b) of the National Industrial Recovery Act for expenditure by the State highway departments under the provisions of the Federal Highway Act of November 9, 1921, as amended and supplemented, and subject to the provisions of section 1 of the Act of June 18, 1934 (48 Stat. 993). Provided, That any amounts allocated from the appropriation made herein for the elimination of existing hazards to life at railroad grade crossings, including the separation or protection of grades at crossings, the reconstruction of existing railroad grade-crossing structures and the relocation of highways to eliminate grade crossings, shall be apportioned by the Secretary of Agriculture to the several States (including the Territory of Hawaii and the District of Columbia), one-half on population as shown by the latest decennial census, one-fourth on the mileage of the Federal-aid highway system as determined by the Secretary of Agriculture, and one-fourth on the railroad mileage as determined by the Interstate Commerce Commission, to be expended by the State highway departments under the provisions of the Federal Highway Act of November 9, 1921, as amended and supplemented, and subject to the provisions of section 1 of such Act of June 18, 1934 (48 Stat. 993); but no part of the funds apportioned to any State or Territory under this joint resolution for public highways and grade crossings need be matched by the State or Territory: And provided further, That the President may also allot funds made available by this joint resolution for the construction, repair, and improvement of public highways in Alaska, Puerto Rico, and the Virgin Islands, and money allocated under this joint resolution to relief agencies may be expended by such agencies for the construction and improvement of roads and streets: Provided, however, That the expenditure of funds from the appropriation made herein for the construction of public highways and other related projects shall be subject to such rules and regulations as the President may prescribe for carrying out this paragraph and preference in the employment of labor shall be given (except in executive, administrative, supervisory, and highly skilled positions) to persons receiving re-

lief, where they are qualified, and the President is hereby authorized to predetermine for each State the hours of work and the rates of wages to be paid to skilled, intermediate, and unskilled labor engaged in such construction thereon. Provided further, That rivers and harbors projects, reclamation projects (except the drilling of wells, development of springs and subsurface waters), and public buildings projects undertaken pursuant to the provisions of this joint resolution shall be carried out under the direction of the respective permanent Government departments or agencies now having jurisdiction of similar projects.

"Funds made available by this joint resolution may be used, in the discretion of the President, for the purpose of making loans to finance in whole or in part, the purchase of farm lands and necessary equipment by farmers, farm tenants, croppers, or farm laborers. Such loans shall be made on such terms as the President shall prescribe and shall be repaid in equal annual installments, or in such other manner as the President may determine.

"Funds made available by this joint resolution may be used, in the discretion of the President for the administration of the Agricultural Adjustment Act, as amended, during the period of twelve months after the effective date of this joint resolution.

"SEC. 2. The appropriation made herein shall be available for use only in the United States and its Territories and possessions. The provisions of the Act of February 15, 1934 (48 Stat. 351), relating to disability or death compensation and benefits shall apply to those persons receiving from the appropriation made herein, for services rendered as employees of the United States, security payments in accordance with schedules established by the President: Provided, That so much of the sum herein appropriated as the United States Employees' Compensation Commission, with the approval of the President, estimates and certifies to the Secretary of the Treasury will be necessary for the payment of such compensation and administrative expenses shall be set aside in a special fund to be administered by the Commission for such purposes, and after June 30, 1936, such special fund shall be available for these purposes annually in such amounts as may be specified therein in the annual appropriation Acts. The provisions of section 3709 of the Revised Statutes (U. S. C., title 41, sec. 5) shall not apply to any purchase made or service procured in carrying out the provisions of this joint resolution when the aggregate amount involved is less than \$300.

"SEC. 3. In carrying out the provisions of this joint resolution the President may (a) authorize expenditures for contract stenographic reporting services; supplies and equipment; purchase and exchange of law books, books of reference, directories, periodicals, newspapers and press clippings, travel expenses, including the expense of attendance at meetings when specifically authorized, rental at the seat of government or elsewhere; purchase, operation, and maintenance of motor-propelled passenger-carrying vehicles; printing and binding; and such other expenses as he may determine necessary to the accomplishment of the objectives of this joint resolution; and (b) accept and utilize such voluntary and uncompensated services, appoint, without regard to the provisions of the civil-service laws, such officers and employees, and utilize such Federal officers and employees, and, with the consent of the State, such State and local officers and employees, as may be necessary, prescribe their authorities, duties, responsibilities, and tenure, and, without regard to the Classification Act of 1923, as amended, fix the compensation of any officers and employees so appointed.

"Any Administrator or other officer, or the members of any central board, or other agency, named to have general supervision at the seat of Government over the program and work contemplated under the appropriation made in section 1 of this joint resolution and receiving a salary of \$5,000 or more per annum from such appropriation, and any State or regional administrator receiving a salary of \$5,000 or more per annum from such appropriation (except persons now serving as such under other law), shall be appointed by the President, by and with the advice and consent of the Senate: Provided, That the provisions of section 1761 of the Revised Statutes shall not apply to any such appointee and the salary of any person so appointed shall not be increased for a period of six months after confirmation.

"SEC. 4. In carrying out the provisions of this joint resolution the President is authorized to establish and prescribe the duties and functions of necessary agencies within the Government.

"SEC. 5. In carrying out the provisions of this joint resolution the President is authorized (within the limits of the appropriation made in section 1) to acquire, by purchase or by the power of eminent domain, any real property or any interest therein, and improve, develop, grant, sell, lease (with or without the privilege of purchasing), or otherwise dispose of any such property or interest therein.

"SEC. 6. The President is authorized to prescribe such rules and regulations as may be necessary to carry out this joint resolution, and any willful violation of any such rule or regulation shall be punishable by fine of not to exceed \$1,000.

"SEC. 7. The President shall require to be paid such rates of pay for all persons engaged upon any project financed in whole or in part, through loans or otherwise, by funds appropriated by this joint resolution, as will in the discretion of the President accomplish the purposes of this joint resolution, and not affect adversely or otherwise tend to decrease the going rates of wages paid for work of a similar nature.

"The President may fix different rates of wages for various types of work on any project, which rates need not be uniform throughout the United States: Provided, however, That whenever permanent buildings for the use of any department of the Government of the United States, or the

District of Columbia, are to be constructed by funds appropriated by this joint resolution, the provisions of the Act of March 3, 1931 (U. S. C., Supp. VII, title 40, sec. 276a), shall apply but the rates or wages shall be determined in advance of any bidding thereon.

"Sec. 8. Wherever practicable in the carrying out of the provisions of this joint resolution, full advantage shall be taken of the facilities of private enterprise.

"Sec. 9. Any person who knowingly and with intent to defraud the United States makes any false statement in connection with any application for any project, employment, or relief and under the provisions of this joint resolution, or diverts, or attempts to divert, or assists in diverting for the benefit of any person or persons not entitled thereto, any moneys appropriated by this joint resolution, or any services or real or personal property acquired thereunder, or who knowingly, by means of any fraud, force, threat, intimidation, or boycott, deprives any person of any of the benefits to which he may be entitled under the provisions of this joint resolution, or attempts so to do, or assists in so doing, shall be deemed guilty of a misdemeanor and shall be fined not more than \$2,000 or imprisoned not more than one year, or both.

"Sec. 10. Until June 30, 1936, or such earlier date as the President by proclamation may fix, the Federal Emergency Relief Act of 1933, as amended, is continued in full force and effect.

"Sec. 11. No part of the funds herein appropriated shall be expended for the administrative expenses of any department, bureau, board, commission, or independent agency of the Government if such administrative expenses are ordinarily financed from annual appropriations, unless additional work is imposed thereupon by reason of this joint resolution.

"Sec. 12. The Federal Emergency Administration of Public Works established under title II of the National Industrial Recovery Act is hereby continued until June 30, 1937, and is authorized to perform such of its functions under said Act and such functions under this joint resolution as may be authorized by the President. All sums appropriated to carry out the purposes of said Act shall be available until June 30, 1937. The President is authorized to sell any securities acquired under said Act or under this joint resolution and all moneys realized from such sales shall be available to the President, in addition to the sums heretofore appropriated under this joint resolution, for the making of further loans under said Act or under this joint resolution.

"Sec. 13. (a) The acquisition of articles, materials, and supplies for the public use, with funds appropriated by this joint resolution, shall be subject to the provisions of section 2 of title III of the Treasury and Post Office Appropriation Act, fiscal year 1934; and all contracts let pursuant to the provisions of this joint resolution shall be subject to the provisions of section 3 of title III of such Act.

"(b) Any allocation, grant, or other distribution of funds for any project, Federal or non-Federal, from the appropriation made by this joint resolution, shall contain stipulations which will provide for the application of title III of such Act to the acquisition of articles, materials, and supplies for use in carrying out such project.

"Sec. 14. The authority of the President under the provisions of the Act entitled 'An Act for the relief of unemployment through the performance of useful public work, and for other purposes', approved March 31, 1933, as amended, is hereby continued to and including March 31, 1937.

"Sec. 15. A report of the operations under this joint resolution shall be submitted to Congress before the 10th day of January in each of the next three regular sessions of Congress, which report shall include a statement of the expenditures made and obligations incurred, by classes and amounts.

"Sec. 16. This joint resolution may be cited as the 'Emergency Relief Appropriation Act of 1935.'

Section 3 of the Act Aug. 12, 1935, c. 508, § 3, 49 Stat. 596, provided as follows:

"The term 'Civilian Conservation Corps' as used in section 1 of the Emergency Relief Appropriation Act for 1935, approved April 8, 1935, shall be construed as embracing emergency conservation work of the character carried on prior to April 1, 1935, under authority of the Act of March 31, 1933, as amended."

#### ALLOTMENT FOR LAND CONSERVATION AND UTILIZATION

Act August 24, 1935, c. 641, § 55, 49 Stat. 781, provided as follows: "There is hereby made available, out of any money appropriated by the Emergency Relief Appropriation Act of 1935, such amount as the President may allot for the development of a national program of land conservation and land utilization. The sums so allotted may be used, in the discretion and under the direction of the President for the acquisition of submarginal lands and their use for such public purposes as the President shall prescribe.

"In carrying out the provisions of this section, the President is authorized:

"(a) To make contracts and grants; and

"(b) To acquire, by purchase, any real property or any interest therein (with or without reservations) in accordance with the policy herein set forth."

#### Chapter 17.—PRODUCTION, MARKETING AND USE OF BITUMINOUS COAL

Sec.

801. Declaration of policy and necessity of regulation.

802. Production and distribution of coal as bearing upon and affecting interstate commerce.

803. National Bituminous Coal Commission.

804. Tax on bituminous coal; drawback on acceptance of Code

Sec

805. Bituminous Coal Code, duty of Commission to formulate, contents.

806. District boards and marketing agencies.

807. Marketing

808. Labor relations

809. Organization of Code

810. Review of rules; regulations and orders.

811. Application of Internal Revenue laws

812. Investigations; administering oath; subpoenas; compelling attendance and testimony of witnesses, access to records.

813. Nonmembers as subject to other Acts of Congress regulating industries; right of collective bargaining preserved.

814. Reports and accounting systems; publication of information, penalty for unlawful disclosure, penalty for failure to file report

815. Consistent state laws unaffected by chapter.

816. Application to contracts made prior to Aug. 30, 1935.

817. Marketing agency operating without approval of Commission as subject to antitrust laws

818. Purchase by government from producer failing to comply with code forbidden, forbidding purchase in letting contracts

819. Separability clause.

820. Studies and investigations by Commission

821. Complaints to Commission; hearing and orders

822. Complaints by Commission to Interstate Commerce Commission respecting rates and practices

823. Definitions

824. Effective date of chapter.

825. Duration of chapter

826. Appropriation

827. Short title of chapter.

§ 801. Declaration of policy and necessity of regulation. It is hereby recognized and declared that the mining of bituminous coal and its distribution by the producers thereof in and throughout the United States are affected with a national public interest; that the service of bituminous coal in relation to the industrial activities, the transportation facilities, the health and comfort of the people of the United States; the conservation of bituminous coal deposits in the United States by controlled production and economical mining and marketing; the maintenance of just and rational relations between the public, owners, producers, and employees; the right of the public to constant and ample supplies of coal at reasonable prices; and the general welfare of the Nation require that the bituminous coal industry be regulated as herein provided. (Aug. 30, 1935, c. 824, § 1, 49 Stat. 991.)

§ 802. Production and distribution of coal as bearing upon and affecting interstate commerce. It is further recognized and declared that all production of bituminous coal and distribution by the producers thereof bear upon and directly affect its interstate commerce and render regulation of all such production and distribution imperative for the protection of such commerce and the national public service of bituminous coal and the normal governmental revenues derivable from such industry; that the excessive facilities for the production of bituminous coal and the overexpansion of the industry have led to practices and methods of production, distribution, and marketing of such coal that waste such coal resources of the Nation, disorganize the interstate commerce in such coal and portend the destruction of the industry itself, and burden and obstruct the interstate commerce in such coal, to the end that control of such production and regulation of the prices realized by the producers thereof are necessary to promote its interstate commerce, remove burdens and obstructions therefrom, and protect the national public interest therein; that practices prevailing in the production of bituminous coal directly affect its interstate commerce and require regulation for the protection of that commerce, and that the right of mine workers to organize and collectively bargain for wages, hours of labor, and conditions of employment should be guaranteed in order to prevent constant wage cutting and the establishment of disparate labor costs detrimental to fair competition in the interstate marketing of bituminous coal, and in order to avoid those obstructions to its interstate commerce that recur in the industrial disputes over labor relations at the mines. (Aug. 30, 1935, c. 824, § 1, 49 Stat. 991.)

§ 803. National Bituminous Coal Commission—(a) Establishment; appointment and qualifications of members; officers and employees; reports; powers



**and duties.** There is hereby established in the Department of the Interior a National Bituminous Coal Commission (herein referred to as "Commission"), which shall be composed of five members appointed by the President, by and with the advice and consent of the Senate, for a term of four years or until the prior termination of this title. The Commission shall annually designate its chairman, and shall have a seal which shall be judicially recognized. Any person appointed to fill a vacancy shall be appointed only for the unexpired term of his predecessor in office. The Commission shall have an office in the city of Washington, District of Columbia, and shall convene at such times and places as the majority of the Commission shall determine. The members of the Commission shall have no financial interest, direct, or indirect, in the mining, transportation, or sale of, or manufacture of equipment for, coal, oil, or gas, or in the generation, transmission, or sale of hydroelectric power, or in the manufacture of equipment for the use thereof, and shall not engage in any other business, vocation, or employment. Any Commissioner may be removed by the President for inefficiency, neglect of duty, or malfeasance in office. The Commission shall, with due regard to the provisions of the civil-service laws or sections 661 to 674 of Title 5, appoint and fix the compensation and duties of a secretary and necessary clerical and other assistants, none of whom shall be related to any member of the Commission by marriage or within the third degree by blood. The members of the Commission shall each receive compensation at the rate of \$10,000 per year and necessary traveling expenses. Such Commission shall have the power to make and promulgate all reasonable rules and regulations for carrying out the provisions of this chapter, and shall annually make full report of its activities to the Secretary of the Interior for transmission to Congress. Upon all matters within its jurisdiction coming before it for determination, it shall have the power and duty of hearing evidence and finding facts upon which its orders and action may be predicated, and its findings of fact supported by any substantial evidence shall be conclusive upon review thereof by any court of the United States.

**(b) Office of Counsel of Commission; appointment and compensation of counsel; duties.** (1) There shall be an office in the Department of the Interior to be known as the office of the Consumers' Counsel of the National Bituminous Coal Commission. The office shall be in charge of a counsel to be appointed by the President, by and with the advice and consent of the Senate. The counsel shall have no financial interest, direct or indirect, in the mining, transportation, or sale of, or the manufacture of equipment for, coal, oil, or gas, or in the generation, transmission, or sale of hydroelectric power, or in the manufacture of equipment for the use thereof, and shall not engage in any other business, vocation, or employment. The counsel shall receive compensation at the rate of \$10,000 per year and necessary traveling expenses.

(2) It shall be the duty of the counsel to appear in the interest of the consuming public in any proceeding before the Commission and to conduct such independent investigation of matters relative to the bituminous coal industry and the administration of this chapter as he may deem necessary to enable him properly to represent the consuming public in any proceeding before the Commission. In any proceeding before the Commission in which the counsel has entered an appearance, the counsel shall have the right to offer any relevant testimony and argument, oral or written, and to examine and cross-examine witnesses and parties to the proceeding, and shall have the right to have subpoena or other process of the Commission issue in his behalf. Whenever the counsel finds that it is in the interest of the consuming public to have the Commission furnish any information at its command or conduct any investigation as to any matter within its authority, then the counsel shall so certify to the Commission, specifying in the certificate

the information or investigation desired. Thereupon the Commission shall promptly furnish to the counsel the information or promptly conduct the investigation and place the results thereof at the disposal of the counsel.

(3) Within the limitations of such appropriations as the Congress may from time to time provide, the counsel is authorized, with due regard to the civil service laws and sections 661 to 674 of Title 5, to appoint and fix the compensation and duties of such assistants and clerks, and is authorized to make such expenditures, as may be necessary for the performance of the duties vested in him. (Aug. 30, 1935, c. 824, § 2, 49 Stat. 992.)

**§ 804. Tax on bituminous coal; drawback on acceptance of Code.** There is hereby imposed upon the sale or other disposal of all bituminous coal produced within the United States an excise tax of 15 per centum on the sale price at the mine, or in the case of captive coal the fair market value of such coal at the mine, such tax, subject to the later provisions of this section, to be payable to the United States by the producers of such coal, and to be payable monthly for each calendar month, on or before the first business day of the second succeeding month, and under such regulations, and in such manner, as shall be prescribed by the Commissioner of Internal Revenue: *Provided*, That in the case of captive coal produced as aforesaid, the Commissioner of Internal Revenue shall fix a price therefor at the current market price for the comparable kind, quality, and size of coals in the locality where the same is produced: *Provided further*, That any such coal producer who has filed with the National Bituminous Coal Commission his acceptance of the code provided for in sections 805, 806, 807 and 808 of this chapter, and who acts in compliance with the provisions of such code, shall be entitled to a drawback in the form of a credit upon the amount of such tax payable hereunder, equivalent to 90 per centum of the amount of such tax, to be allowed and deducted therefrom at the time settlement therefor is required, in such manner as shall be prescribed by the Commissioner of Internal Revenue. Such right or benefit of drawback shall apply to all coal sold or disposed of from and after the day of the producer's filing with the Commission his acceptance of said code in such form of agreement as the Commission may prescribe. No producer shall by reason of his acceptance of the code provided for in sections 805, 806, 807 and 808 of this chapter or of the drawback of taxes provided in this section be held to be precluded or estopped from contesting the constitutionality of any provision of said code, or its validity as applicable to such producer. (Aug. 30, 1935, c. 824, § 3, 49 Stat. 993.)

Effective date of section, see section 824 of this title.

**§ 805. Bituminous Coal Code; duty of Commission to formulate; contents.** The provisions of this section and sections 806, 807 and 808 of this chapter shall be formulated by the Commission into a working agreement, to be known as the "Bituminous Coal Code", and herein referred to as the "Code." Producers accepting and operating under its provisions are herein referred to as "Code members."

For the purpose of carrying out the declared policy of this chapter, the code shall contain the conditions, provisions, and obligations which will tend to regulate interstate commerce in bituminous coal and transactions directly affecting interstate commerce in bituminous coal prescribed in sections 806, 807 and 808 of this chapter. (Aug. 30, 1935, c. 824, § 4, 49 Stat. 994.)

**§ 806. District boards and marketing agencies—(a) Organization and establishment.** Twenty-three district boards of coal producers shall be organized.<sup>1</sup> Each district board shall consist of not less than three nor more than seventeen members. The number of members of the district board shall, subject to the approval of the Commission, be determined by the

<sup>1</sup> Schedule of districts, see "Annex" following section 827, post.

majority vote of the district tonnage during the calendar year 1924 represented at a meeting of the producers of the district called for the purpose of such determination and for the election of such district board; and all known producers within the district shall be given notice of the time and place of the meeting. All but one of the members of the district board shall be producers or representatives of producers truly representative of all the mines of the district. The number of such producer members shall be an even number. One-half of such producer members shall be elected by the majority in number of the producers of the district represented at the aforesaid meeting. The other producer members shall be elected by votes cast in the proportion of the annual tonnage output for the preceding calendar year of the producers in the district, with the right on the part of the producers to vote their tonnage cumulatively: *Provided*, That not more than one officer or employee of any producer within a district shall be a member of the district board at the same time. The remaining member of each district board shall be selected by the organization of employees representing the preponderant number of employees in the industry of the district in question. The term of district board members shall be two years and until their successors are elected.

In case any marketing agency comprising a substantial number of code members in any producing field within a district establishes, to the satisfaction of the Commission, that it has no representation upon the district board, and that it is fairly entitled thereto, the Commission may, in its discretion, after hearing, increase the membership of such district board so as to provide for such representation.

Marketing agencies may be established or maintained within any district by a voluntary association of producers within any producing field therein, as such producing field may be defined by the district board, and function under such general rules and regulations as may be prescribed by the district board, with the approval of the Commission, for the purpose of marketing their coal with due respect for the standards of unfair competition as defined in this chapter. Each such marketing agency shall impose no unreasonable or inequitable conditions of membership and shall be truly representative of at least one-third of the tonnage of any producing field or group of producing fields.

The term "marketing agency" or "agencies" as used in this chapter shall include any trade association of coal producers complying with the requirements of a marketing agency and exercising the functions thereof.

The district boards and marketing agencies shall each have power to adopt bylaws and rules of procedure, subject to approval of the Commission, and to appoint officers from their own membership, to fix their terms and compensation, to provide for reports, and to employ such committees, employees, arbitrators, and other persons necessary to effectuate their purposes. Members of the district board shall serve, as such, without compensation, but may be reimbursed for their reasonable expenses. The territorial boundaries or limits of such twenty-three districts are set forth in the schedule entitled "Schedule of Districts" and annexed to this chapter: *Provided*, That the territorial boundaries or limits of any district or districts may be changed, or said districts may be divided or consolidated, after hearing, by the Commission.

(b) **Expense of administering code; assessments.** The expense of administering the code by the respective district boards shall be borne by those subject to the jurisdiction of such boards, respectively, each paying his proportionate share, as assessed, computed on a tonnage basis, in accordance with regulations prescribed by such boards with the approval of the Commission. Such assessments may be collected by the district board by action in any court of competent jurisdiction.

(c) **Status of board members as partners; exemption of members from liabilities.** Nothing contained in this chapter shall constitute the members of a district board partners for any purpose. Nor shall any member of a district board be liable in any manner to any one for any act of any other member, officer, agent or employee of the district board. Nor shall any member of a district board, exercising reasonable diligence in the conduct of his duties under this chapter, be liable to any one for any action or omission to act under this chapter, except for his own willful misfeasance, or for nonfeasance involving moral turpitude. (Aug. 30, 1935, c. 824, § 4, 49 Stat. 994.)

§ 807. **Marketing.** The district boards and code members shall accept and be subject to the jurisdiction of the Commission to approve or to fix minimum and maximum prices, as follows:

(a) **Minimum prices; establishment; rules and regulations for sales and distribution.** All code members shall, in their respective districts, report all spot orders to the district board and shall file with it copies of all contracts for the sale of coal, copies of all invoices, copies of all credit-memoranda, and such other information concerning the preparation, cost, sale, and distribution of coal as the Commission may authorize or require. All such records shall be held by the district board as the confidential records of the code member filing such information.

Each district board may set up and maintain a statistical bureau, and the district board may require that such reports and other information in this subsection described shall be filed with such statistical bureau in lieu of the filing thereof with the district board.

Each district board shall, from time to time on its own motion or when directed by the Commission, establish minimum prices free on board transportation facilities at the mines for kinds, qualities, and sizes of coal produced in said district, with full authority, in establishing such minimum prices, to make such classification of coals and price variations as to mines and consuming market areas as it may deem necessary and proper. In order to sustain the stabilization of wages, working conditions, and maximum hours of labor, said prices shall be established so as to yield a return per net ton for each district in a minimum price area, as such districts are identified and such area is defined in the subjoined table designated "Minimum-price area table", equal as nearly as may be to the weighted average of the total costs, per net ton, determined as hereinafter provided, of the tonnage of such minimum price area. The computation of the total costs shall include the cost of labor, supplies, power, taxes, insurance, workmen's compensation, royalties, depreciation, and depletion (as determined by the Bureau of Internal Revenue in the computation of the Federal income tax) and all other direct expenses of production, coal operators' association dues, district board assessments for Board operating expenses only levied under the code, and reasonable costs of selling and the cost of administration.

#### MINIMUM PRICE AREA TABLE

\*Area 1: Eastern Pennsylvania, district 1; western Pennsylvania, district 2; northern West Virginia, district 3; Ohio, district 4; Michigan, district 5; Panhandle, district 6; Southern numbered 1, district 7; Southern numbered 2, district 8; West Kentucky, district 9; Illinois, district 10; Indiana, district 11; Iowa, district 12; that part of Southeastern, district 13, comprising Van Buren, Warren, and McMinn Counties in Tennessee.

Area 2: Southeastern, district 13, except Van Buren, Warren, and McMinn Counties in Tennessee.

Area 3: Arkansas-Oklahoma, district 14.

Area 4: Southwestern, district 15.

<sup>2</sup> Schedule of districts, see "Annex" following section 827, post



Area 5: Northern Colorado, district 16; southern Colorado, district 17; New Mexico, district 18.

Area 6: Wyoming, district 19; Utah, district 20.

Area 7: North Dakota and South Dakota, district 21.

Area 8: Montana, district 22.

Area 9: Washington, district 23.

The minimum prices so established shall reflect, as nearly as possible, the relative market value of the various kinds, qualities, and sizes of coal, shall be just and equitable as between producers within the district, and shall have due regard to the interests of the consuming public. The procedure for establishment of minimum prices shall be in accordance with rules and regulations to be approved by the Commission.

A schedule of such minimum prices, together with the data upon which they are computed, including, but without limitation, the factors considered in determining the price relationship, shall be submitted by the district board to the Commission, which may approve, disapprove, or modify the same to conform to the requirements of this subsection, and such approval, disapproval, or modification shall be binding upon all code members within the district, subject to such modification therein as may result from the coordination provided for in the succeeding subsection (b): *Provided*, That all minimum prices established for any kind, quality, or size of coal for shipment into any consuming market area shall be just and equitable as between producers within the district: *And provided further*, That no minimum price shall be established that permits dumping.

As soon as possible after its creation, each district board shall determine the weighted average of the total costs of the ascertainable tonnage produced in the district in the calendar year 1934. The district board shall adjust the average costs so determined, as may be necessary to give effect to any changes in wage rates, hours of employment, or other factors substantially affecting costs, exclusive of seasonal changes, so as to reflect as accurately as possible any change or changes which may have been established since January 1, 1934. Such determination and the computations upon which it is based shall be promptly submitted to the Commission by each district board in the respective minimum-price area. The Commission shall thereupon determine the weighted average of the total costs of the tonnage for each minimum-price area in the calendar year 1934, adjusted as aforesaid, and transmit it to all the district boards within such minimum-price area. Said weighted average of the total costs shall be taken as the basis for the establishment of minimum prices to be effective until changed by the Commission. Thereafter, upon satisfactory proof made at any time by any district board of a change in excess of 2 cents per net ton of two thousand pounds in the weighted average of the total costs in the minimum-price area, exclusive of seasonal changes, the Commission shall increase or decrease the minimum prices accordingly. The weighted average figures of total cost determined as aforesaid shall be available to the public.

Each district board shall, on its own motion or when directed by the Commission, establish reasonable rules and regulations incidental to the sale and distribution of coal by code members within the district. Such rules and regulations shall not be inconsistent with the requirements of this section and shall conform to the standards of fair competition herein-after established. Such rules and regulations shall be submitted by the district board to the Commission with a statement of the reasons therefor, and the Commission may approve, disapprove, or modify the same, and such approval, disapproval, or modification shall be binding upon all code members within the district.

(b) **Coordination of minimum prices, rules and regulations.** District boards shall, under rules and regulations established by the Commission, coordinate in common consuming market areas upon a fair competitive basis the minimum prices and the rules and

regulations established by them, respectively, under subsection (a) hereof. Such coordination, among other factors, but without limitation, shall take into account the various kinds, qualities, and sizes of coal, and transportation charges upon coal. All minimum prices established for any kind, quality, or size of coal for shipment into any consuming market area shall be just and equitable, and not unduly prejudicial or preferential, as between and among districts, and shall reflect, as nearly as possible, the relative market values, at points of delivery in each common consuming market area, of the various kinds, qualities and sizes of coal produced in the various districts; to the end of affording the producers in the several districts substantially the same opportunity to dispose of their coals upon a competitive basis as has heretofore existed. The minimum prices established as a result of such coordination shall not, as to any district, reduce or increase the return per net ton upon all the coal produced therein below or above the minimum return as provided in subsection (a) of this section by an amount greater than necessary to accomplish such coordination to the end that the return per net ton upon the entire tonnage of the minimum price area shall approximate and be not less than the weighted average of the total costs per net ton of the tonnage of such minimum price area. Such coordinated prices and rules and regulations, together with the data upon which they are predicated, shall be submitted to the Commission, which may approve, disapprove, or modify the same to establish and maintain such fair competitive relationship, and such approval, disapproval, or modification shall be binding upon all code members within the affected districts. No minimum price shall be established that permits dumping. On the petition of any district board or other party in interest or on its own motion, after notice to the district boards, the Commission may at any time conduct hearings to determine whether the foregoing method of fixing minimum prices under subsection (a) is prejudicial to any district with respect to the fair opportunity of such district to market its coal. Should the Commission so find, and further find that the prejudice cannot be removed through the coordination of minimum prices as provided for in this subsection (b), then the Commission may establish a different basis for determining minimum prices in such district, to the end that fair and competitive prices shall prevail in the marketing of the coal produced in such district: *Provided*, That the minimum prices so established as to any such district shall yield a return, per net ton, not less than the weighted average of the total costs, per net ton, of the tonnage of such district.

(c) **Maximum prices; established.** When, in the public interest, the Commission deems it necessary to establish maximum prices for coal in order to protect the consumer of coal against unreasonably high prices therefor, the Commission shall have the right to fix maximum prices free on board transportation facilities for coal in any district. Such maximum prices shall be established at a uniform increase above the minimum prices in effect within the district at the time, so that in the aggregate the maximum prices shall yield a reasonable return above the weighted average total cost of the district: *Provided*, That no maximum price shall be established for any mine which shall not return cost plus a reasonable profit.

(d) **Complaints to Commission; hearings and orders.** If any code member or district board, or any State or political subdivision of a State, shall be dissatisfied with such coordination of prices or rules and regulations, or by a failure to establish such coordination of prices or rules and regulations, or by the maximum prices established for him or it pursuant to subsection (c) of this section, he or it shall have the right, by petition, to make complaint to the Commission, and the Commission shall, under rules and regulations established by it, and after notice and hearing, make such order as may be required to effectuate the purpose of subsections (b) and (c) of this section, which order shall be binding upon all parties in in-

terest. Pending final disposition of such petition, and upon reasonable showing of necessity therefor, the Commission may make such preliminary or temporary order as in its judgment may be appropriate, and not inconsistent with the provisions of this chapter.

(e) **Sales and contracts to sell at other than fixed prices; coal shipped outside domestic markets exempt from price rules.** Subject to the exceptions provided in section 816 of this chapter, no coal shall be sold or delivered at a price below the minimum or above the maximum therefor approved or established by the Commission, and the sale or delivery of coal at a price below such minimum or above such maximum shall constitute a violation of the code.

Subject to the exceptions provided in section 816 of this chapter, a contract for the sale of coal at a price below the minimum or above the maximum therefor approved or established by the Commission at the time of the making of the contract shall constitute a violation of the code, and such contract shall be invalid and unenforceable.

From and after August 30, 1935, until prices shall have been established pursuant to subsections (a) and (b) of section 807 of this chapter, no contract for the sale of coal shall be made providing for delivery for a period longer than thirty days from the date of the contract.

While this chapter is in effect no code member shall make any contract for the sale of coal for delivery after the expiration date of this chapter at a price below the minimum or above the maximum therefor approved or established by the Commission and in effect at the time of making the contract.

The minimum prices established in accordance with the provisions of this section shall not apply to coal sold by a code member and shipped outside the domestic market. The domestic market shall include all points within the continental United States and Canada, and car-ferry shipments to the Island of Cuba. Bunker coal delivered to steamships for consumption thereon shall be regarded as shipped within the domestic market. Maximum prices established in accordance with the provisions of this section shall not apply to coal sold by a code member and shipped outside the continental United States.

(f) **Access to data of National Recovery Administration.** All data, reports, and other information in the possession of the National Recovery Administration in relation to bituminous coal shall be available to the Commission for the administration of this chapter.

(g) **Devices for evasion of law; preventive rules and regulations.** The price provisions of this chapter shall not be evaded or violated by or through the use of docks or other storage facilities or transportation facilities, or by or through the use of subsidiaries, affiliated sales or transportation companies or other intermediaries or instrumentalities, or by or through the absorption, directly or indirectly, of any transportation or incidental charge of whatsoever kind or character, or any part thereof. The Commission is hereby authorized, after investigation and hearing, and upon notice to the interested parties, to make and issue rules and regulations to make this subsection effective.

(h) **Established price at time of sale as governing; price allowance to retailers.** All sales and contracts for the sale of coal shall be subject to the code prices herein provided for and in effect at the time of the making of such sales and contracts. The Commission shall prescribe the price allowance to and receivable by persons who purchase coal for resale, and resell it in not less than cargo or railroad carload lots; and shall require the maintenance by such persons, in the resale of coal, of the minimum prices established under this chapter.

(i) **Unfair methods of competition.** The following practices shall be unfair methods of competition and shall constitute violations of the code:

1. The consignment of unordered coal, or the forwarding of coal which has not actually been sold,

consigned to the producer or his agent: *Provided, however,* That coal which not actually been sold may be forwarded, consigned to the producer or his agent at rail or track yards, tidewater ports, river ports, or lake ports, or docks beyond such ports. Such limitations on the consignment of coal shall not apply to the following classes: Bunker coal, coal applicable against existing contracts, coal for storage (other than in railroad cars) by the producer or his agent in rail or track yards or on docks, wharves, or other yards for resale by the producer or his agent.

2. The adjustment of claims with purchasers of coal in such manner as to grant secret allowances, secret rebates, or secret concessions, or other price discrimination

3. The prepayment of freight charges with intent to or having the effect of granting a discriminatory credit allowance.

4. The granting in any form of adjustments, allowances, discounts, credits, or refunds to purchasers or sellers of coal, for the purposes or with the effect of altering retroactively a price previously agreed upon, in such manner as to create price discrimination.

5. The predating or postdating of any invoice or contract for the purchase or sale of coal, except to conform to a bona fide agreement for the purchase or sale entered into on the predate.

6. The payment or allowance in any form or by any device of rebates, refunds, credits, or unearned discounts, or the extension to certain purchasers of services or privileges not extended to all purchasers under like terms and conditions, or under similar circumstances.

7. The attempt to purchase business, or to obtain information concerning a competitor's business by concession, gifts, or bribes.

8. The intentional misrepresentation of any analysis or of analyses, or of sizes, or the intentional making, causing, or permitting to be made, or publishing, of any false, untrue, misleading, or deceptive statement by way of advertising, invoicing, or otherwise concerning the size, quality, character, nature, preparation, or origin of any coal bought, sold, or consigned.

9. The unauthorized use, whether in written or oral form, of trade marks, trade names, slogans, or advertising matter already adopted by a competitor, or any deceptive approximation thereof.

10. Inducing or attempting to induce, by any means or device whatsoever, a breach of contract between a competitor and his customer during the term of such contract.

11. Splitting or dividing commissions, broker's fees, or brokerage discounts, or otherwise in any manner directly or indirectly using brokerage commissions or jobbers' arrangements or sales agencies for making discounts, allowances, or rebates, or prices other than those determined under this Act, to any industrial consumer or to any retailers, or to others, whether of a like or different class.

12. Selling to, or through, any broker, jobber, commission account, or sales agency, which is in fact or in effect an agency or an instrumentality of a retailer or an industrial consumer or of an organization of retailers or industrial consumers, whereby they or any of them secure either directly or indirectly a discount, dividend, allowance, or rebates, or a price other than that determined in the manner prescribed by this chapter.

13. Violations of the provisions of the code.

It shall not be an unfair method of competition or a violation of the code or any requirement of this chapter (1) to sell to or through any bona fide and legitimate farmer's cooperative organization duly organized under the laws of any State, Territory, the District of Columbia, or the United States whether or not such organization grants rebates, discounts, patronage dividends, or other similar benefits to its members, (2) to sell through any intervening agency to any such cooperative organization, or (3) to pay or allow to any such cooperative organization or to any such intervening agency any discount, commission, rebate,

or dividend ordinarily paid or allowed, or permitted by the code to be paid or allowed, to other purchasers for purchases in wholesale or middleman quantities.

(j) **Jurisdiction of Commission to hear complaints of violations and issue orders.** The Commission shall have jurisdiction to hear and determine written complaints made charging any violation of the code specified in this section. It shall make and publish rules and regulations for the consideration and hearing of any such complaint, and all interested parties shall be required to conform thereto. The Commission shall make due effort toward adjustment of such complaints and shall endeavor to compose the differences of the parties, and shall make such order or orders in the premises, from time to time, as the facts and the circumstances warrant. Any such order shall be subject to review as are other orders of the commission. (Aug. 30, 1935, c. 824, § 4, 49 Stat. 995.)

§ 808. **Labor relations.** To effectuate the purposes of this chapter, the district boards and code members shall accept the following conditions which shall be contained in said code:

(a) **Collective bargaining; joining company union as condition to employment.** Employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from interference, restraint, or coercion of employers, or their agents, in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection; and no employee and no one seeking employment shall be required as a condition of employment to join any company union.

(b) **Right to peaceable assemblage; selection of check-weighman; dealing at company stores or occupying company houses.** Employees shall have the right of peaceable assemblage for the discussion of the principles of collective bargaining, shall be entitled to select their own check-weighman to inspect the weighing or measuring of coal, and shall not be required as a condition of employment to live in company houses or to trade at the store of the employer.

(c) **Bituminous Coal Labor Board; appointment; qualifications; terms and compensation.** A Bituminous Coal Labor Board, hereinafter referred to as "Labor Board", consisting of three members, shall be appointed by the President of the United States by and with the advice and consent of the Senate, and shall be assigned to the Department of Labor. The chairman shall be an impartial person with no financial interest in the industry, or connection with any organization of the employees. Of the other members, one shall be a representative of the producers and one shall be a representative of the organized employees, each of whom may retain his respective interest in the industry or relationship to the organization of employees. The Labor Board shall, with due regard to the provisions of the civil-service laws and sections 661 to 674 of Title 5, as amended, appoint and fix the compensation and duties of a secretary and necessary clerical and other assistants. The members shall serve for a period of four years or until the prior termination of this chapter, and shall each receive compensation at the rate of \$10,000 per annum and necessary traveling expenses. Any person appointed to fill a vacancy shall be appointed only for the unexpired term of his predecessor in office. Decisions of the Labor Board may be made by a majority thereof.

(d) **Places of sitting; hearings and findings; appeals.** The Labor Board shall sit at such places as its duties require, and may appoint an examiner to report evidence for its finding in any particular case. It shall notify the parties to any dispute of the time and place of the taking of evidence, or the hearing of the cause, and its finding of facts supported by any substantial evidence shall be conclusive upon review thereof by any court of the United States. It shall transmit its findings and order to the parties inter-

ested and to the Commission. The Commission shall take no action thereon for sixty days after the entry of the order of the Labor Board; and if within such sixty days an appeal is taken under the provisions of section 810 of this chapter, no action on such finding and order shall be taken by the Commission during the pendency of the appeal.

(e) **Adjudication of disputes; conducting election to choose representative of employees.** The Labor Board shall have authority to adjudicate disputes arising under subsections (a) and (b) of this section, and to determine whether or not an organization of employees has been promoted, or is controlled or dominated by an employer in its organization, management, policy, or election of representatives; and for the purpose of determining who are the freely chosen representatives of the employees the Board may order and under its supervision may conduct an election of employees for that purpose. The Labor Board may order a code member to meet the representatives of its employees for the purpose of collective bargaining.

(f) **Offer of services as mediator; arbitration.** The Labor Board may offer its services as mediator in any dispute between a producer and its employees where such dispute is not determined by the tribunal set up in a bona fide collective contract; and upon the written submission by the parties requesting an award on a stated matter signed by the duly accredited representatives of the employer and employees, the Labor Board may arbitrate the matter submitted.

(g) **Maximum hours of labor and wage agreements; acceptance by code members.** Whenever the maximum daily and weekly hours of labor are agreed upon in any contract or contracts negotiated between the producers of more than two-thirds the annual national tonnage production for the preceding calendar year and the representatives of more than one-half the mine workers employed, such maximum hours of labor shall be accepted by all the code members. The wage agreement or agreements negotiated by collective bargaining in any district or group of two or more districts, between representatives of producers of more than two-thirds of the annual tonnage production of such district or each of such districts in a contracting group during the preceding calendar year, and representatives of the majority of the mine workers therein, shall be filed with the Labor Board and shall be accepted as the minimum wages for the various classifications of labor by the code members operating in such district or group of districts. (Aug. 30, 1935, c. 824, § 4, 49 Stat. 1001.)

§ 809. **Organization of Code—(a) Duty of Commission to formulate code; forms of acceptance of membership.** Upon the appointment of the Commission it shall at once formulate said code and assist in the organization of the district boards as provided for in section 806 of this chapter, and shall prepare and supply to all coal producers forms of acceptance for membership therein. Such forms of acceptances, when executed, shall be acknowledged before any official authorized to take acknowledgments.

(b) **Revocation of membership and right to tax drawback.** The membership of any such coal producer in such code and his right to a drawback on the taxes levied under section 804 of this chapter, may be revoked by the Commission upon written complaint by any party in interest, after a hearing, with thirty days' written notice to the member, upon proof that such member has willfully failed or refused to comply with any duty or requirement imposed upon him by reason of his membership; and in such a hearing any party in interest, including the district boards, other code members, consumers, employees, and the Commissioner of Internal Revenue, shall be entitled to present evidence and be heard: *Provided*, That the Commission, in its discretion, may in such case make an order directing the code member to cease and desist from violations of the code and upon failure of the code member to comply with such order the Commis-

sion may reopen the case upon ten days' notice to the code member affected and proceed in the hearing thereof as above provided.

The Commission shall keep a record of the evidence heard by it in any proceeding to cancel or revoke the membership of any code member and its findings of fact if supported by any substantial evidence shall be conclusive upon any proceeding to review or restrain the action and order of the Commission in any court of the United States.

When an alleged violation of the code relates to the provisions of section 808 of this title, the Commission shall accept as conclusive the certified findings and orders of the Labor Board and inquire only into the compliance or noncompliance of the code member with respect thereto.

(c) **Restoration of membership and right to drawback.** Any producer whose membership in the code and whose right to a drawback on the taxes as provided under this chapter has been canceled, shall have the right to have his membership restored upon payment by him of all taxes in full for the time during which it shall be found by the Commission that his violation of the code or of any regulation thereunder, the observance of which is required by its terms, shall have continued. In making its findings under this subsection the Commission shall state specifically (1) the period of time during which such violation continued, and (2) the amount of taxes required to be paid to bring about reinstatement as a code member.

(d) **Actions between members for injuries because of violations; jurisdiction; damages.** Any code member who shall be injured in his business or property by any other code member by reason of the doing of any act which is forbidden or the failure to do any act which is required by this chapter or by the code, may sue therefor in any district court of the United States in the district in which the defendant resides, or is found or has an agent, without respect to the amount in controversy, and shall recover three-fold damages by him sustained, and the cost of suit, including a reasonable attorney's fee. (Aug. 30, 1935, c. 824, § 5, 49 Stat. 1002.)

§ 810. **Review of rules, regulations and orders—(a) Review by Commission of rule of district board; arbitration of disputes.** All rules, regulations, determinations, and promulgations of any district board shall be subject to review by the Commission upon appeal by any producer and upon just cause shown shall be amenable to the order of the Commission; and appeal to the Commission shall be a matter of right in all cases to every producer and to all parties in interest. The Commission may also provide rules for the determination of controversies arising under this chapter by voluntary submission thereof to arbitration, which determination shall be final and conclusive.

(b) **Court review of order of Commission or Labor Board.** Any person aggrieved by an order issued by the Commission or Labor Board in a proceeding to which such person is a party may obtain a review of such order in the Circuit Court of Appeals of the United States, within any circuit wherein such person resides or has his principal place of business, or in the United States Court of Appeals for the District of Columbia, by filing in such court, within sixty days after the entry of such order, a written petition praying that the order of the Commission or Labor Board be modified or set aside in whole or in part. A copy of such petition shall be forthwith served upon any member of the Commission or Labor Board, as the case may be, and thereupon the Commission or Labor Board, as the case may be, shall certify and file in the court a transcript of the record upon which the order complained of was entered. Upon the filing of such transcript such court shall have exclusive jurisdiction to affirm, modify, and enforce or set aside such order, in whole or in part. No objection to the order of the Commission or Labor Board shall be considered by the court unless such objection shall have been urged below. The finding of the Commission or Labor Board as to the facts, if supported by substantial evidence, shall be conclusive. If either

party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for failure to adduce such evidence in the hearing before the Commission or Labor Board, the court may order such additional evidence to be taken before the Commission or Labor Board and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The Commission or Labor Board, as the case may be, may modify its findings as to the facts, by reason of the additional evidence so taken, and it shall file such modified or new findings, which, if supported by substantial evidence, shall be conclusive, and its recommendation, if any, for the modification or setting aside of the original order. The judgment and decree of the court, affirming, modifying, and enforcing or setting aside, in whole or in part, any such order of the Commission or Labor Board, as the case may be, shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in sections 346 and 347 of Title 28.

The commencement of proceedings under this subsection shall not, unless specifically ordered by the court, operate as a stay of the Commission's order.

(c) **Enforcement of orders by application to court.** If any code member fails or neglects to obey any order of the Commission while the same is in effect, the Commission in its discretion may apply to the Circuit Court of Appeals of the United States within any circuit where such code member resides or carries on business, for the enforcement of its order, and shall certify and file with its application a transcript of the entire record in the proceeding, including all the testimony taken and the report and order of the Commission. Upon such filing of the application and transcript the court shall cause notice thereof to be served upon such code member and thereupon shall have jurisdiction of the proceeding and of the question determined therein, and shall have power to make and enter upon the pleadings, testimony, and proceedings set forth in such transcript a decree affirming, modifying, or setting aside the order of the Commission. The findings of the Commission as to facts, if supported by substantial evidence, shall be conclusive. If either party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Commission, the court may order such additional evidence to be taken before the Commission and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper.

The Commission may modify its findings as to the facts or make new findings, by reason of the additional evidence so taken, and it shall file such modified or new findings, which if supported by substantial evidence shall be conclusive, and its recommendation, if any, for the modification or setting aside of its original order, with the return of such additional evidence. The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari or certification as provided in sections 346 and 347 of Title 28.

(d) **Jurisdiction of courts; preferential status over other pending cases.** The jurisdiction of the Circuit Court of Appeals of the United States or the United States Court of Appeals for the District of Columbia, as the case may be, to enforce, set aside, or modify orders of the Commission or Labor Board shall be exclusive.

Such proceedings in the Circuit Court of Appeals or the United States Court of Appeals for the District of Columbia, as the case may be, shall be given precedence over other cases pending therein, and shall be in every way expedited. (Aug. 30, 1935, c. 824, § 6, 49 Stat. 1003.)

§ 811. **Application of Internal Revenue laws.** All provisions of the law, including penalties and refunds,

relating to the collection and disposition of internal revenue taxes, shall, insofar as applicable and not inconsistent with the provisions of this chapter, be applicable with respect to taxes imposed under this chapter. (Aug. 30, 1935, c. 824, § 7, 49 Stat. 1005.)

**§ 812. Investigations; administering oath; subpoena; compelling attendance and testimony of witnesses; access to records.** (a) The members of the Commission and of the Labor Board are authorized to administer oaths to witnesses appearing before their respective boards; and, for the purpose of conducting its investigations, said Commission or the said Labor Board shall have full power to issue subpoenas and subpoenas duces tecum, which shall be as nearly as may be in the form of subpoenas issued by district courts of the United States. In case any person shall fail or refuse to obey such subpoena it shall be the duty of the Commission, or the Labor Board, through its chairman, to make application to the District Court of the United States setting forth the issue and service of such subpoena and the refusal of the person to obey the same and requesting such court to compel such person to appear before such court and show lawful cause for such refusal. Upon the filing of such application with the clerk of such court, it shall be the duty of the judge thereof, either in term time or vacation, to forthwith enter an order of record, requiring such person to appear before such court at a time stated in said order within three days from such entry, and show cause why he should not be required to obey such subpoena, and upon his failure to show cause it shall be the duty of the court to order such witness to appear before the said Commission or Labor Board and give such testimony or produce such evidence as may be lawfully required by said Commission or Labor Board. The district court, either in term time or vacation, shall have full power to punish for contempt as in other cases of refusal to obey the process and order of such court.

(b) In the investigation of any complaint or violation of the code, or of any rule or regulation the observance of which is required under the terms thereof, the Commission or the Labor Board, as the case may be, shall have power to require such reports from, and shall be given access to inspect the books and records of, code members to the extent deemed necessary for the purpose of determining the complaint. (Aug. 30, 1935, c. 824, § 8, 49 Stat. 1005.)

**§ 813. Nonmembers as subject to other Acts of Congress regulating industries; right of collective bargaining preserved.** Should any producer or producers of bituminous coal not accept and maintain membership under the code set out in section 4 of this chapter, he or they shall in addition to the tax herein provided and without the privilege of any drawback thereon, be held subject to other Acts of Congress regulating industries and their labor relations or providing for codes of fair competition therein: *Provided*, That the employees of all producers shall have the right of self-organization and collective bargaining through representatives of their own choosing free from the interference, restraint, or coercion of employers or their agents, all as set forth in section 808, (a) and (b), of this chapter. (Aug. 30, 1935, c. 824, § 9, 49 Stat. 1005.)

**§ 814. Reports and accounting systems; publication of information; penalty for unlawful disclosure; penalty for failure to file report.** (a) The Commission may require reports from producers and may use such other sources of information available as it deems advisable, and may require producers to maintain a uniform system of accounting of costs, wages, operations, sales, profits, losses, and such other matters as may be required in the administration of this chapter. No information obtained from a producer disclosing costs of production or sales realization shall be made public without the consent of the producer from whom the same shall have been obtained, except where such disclosure is warranted by a controversy with the producer over any order of the Commission and except

that such information may be compiled in composite form in such manner as shall not be injurious to the interests of any producer and, as so compiled, may be published by the Commission.

(b) Any officer or employee of the Commission or of any district board who shall, in violation of the provisions of subsection (a), make public any information obtained by the Commission or the district board, without its authority, unless directed by a court, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding \$500, or by imprisonment not exceeding six months, or by both fine and imprisonment, in the discretion of the court.

(c) If any producer required by this chapter or the code to file a report shall fail to do so within the time fixed for filing the same, and such failure shall continue for thirty days after notice of such default, the producer shall forfeit to the United States the sum of \$50 for each and every day of the continuance of such failure, which forfeiture shall be payable into the Treasury of the United States, and shall be recoverable in a civil suit in the name of the United States, brought in the district where the producer has his principal office or in any district in which he shall do business. It shall be the duty of the various district attorneys, under the direction of the Attorney General of the United States, to prosecute for the recovery of forfeiture. (Aug. 30, 1935, c. 824, § 10, 49 Stat. 1005.)

**§ 815. Consistent State laws unaffected by chapter.** State laws regulating the mining of coal not inconsistent herewith are not affected by this chapter. (Aug. 30, 1935, c. 824, § 11, 49 Stat. 1006.)

**§ 816. Application to contracts made prior to Aug. 30, 1935.** No coal may be delivered upon a contract made prior to August 30, 1935, at a price below the minimum price at the time of delivery upon such contract, as established pursuant to section 807 of this chapter, and such contract shall be invalid and unenforceable: *Provided*, That this prohibition shall not apply (a) to a lawful and bona fide written contract entered into prior to October 2, 1933; nor (b) to a lawful and bona fide written contract entered into subsequent to that date and prior to May 27, 1935, at not less than the minimum price current as published under the Code of Fair Competition for the Bituminous Coal Industry, pursuant to section 703 of this title, at the time of making of such contract; nor (c) to a lawful and bona fide written contract entered into on or after May 27, 1935, and prior to August 30, 1935, at not less than the minimum price for current sale as published under said code of fair competition, as at May 27, 1935. (Aug. 30, 1935, c. 824, § 12, 49 Stat. 1006.)

**§ 817. Marketing agency operating without approval of Commission as subject to antitrust laws.** Any combination between producers creating a marketing agency for the disposal of competitive coals in interstate commerce at prices to be determined by such agency or by the agreement of the producers operating through such agency, shall be unlawful as a restraint of interstate trade and commerce within the provisions of sections 1 to 27 of this title, unless such marketing agency shall have been approved by the Commission as provided in section 805 of this title. (Aug. 30, 1935, c. 824, § 13, 49 Stat. 1006.)

**§ 818. Purchase by Government from producer failing to comply with code forbidden; forbidding purchase in letting contracts.** (a) No bituminous coal shall be purchased by the United States, or any department or agency thereof, produced at any mine, where the producer has not complied with the provisions of the code set out in sections 806, 807 and 808 of this chapter.

(b) Each contract made by the United States, or any department or agency thereof, with a contractor for any public work, or service, shall contain a provision that the contractor will buy no bituminous coal to use on or in the carrying out of such contract from



any producer except such producer be a member of the code set out in sections 805 to 808 of this chapter as certified to by the National Bituminous Coal Commission. (Aug. 30, 1930, c. 824, § 14, 49 Stat. 1006.)

**§ 819. Separability clause.** If any provision of this chapter, or the application thereof to any person or circumstances, is held invalid, the remainder of the chapter and the application of such provisions to other persons or circumstances shall not be affected thereby. (Aug. 30, 1935, c. 824, § 15, 49 Stat. 1007.)

**§ 820. Studies and investigations by Commission.** The Commission shall study and investigate the matter of increasing the uses of bituminous coal and the problems of its importation and exportation; and shall further investigate—

(1) The economic operations of mines with the view to the conservation of the national coal resources.

(2) The safe operation of mines for the purpose of minimizing working hazards, and for such purpose shall be authorized to employ the services of the Bureau of Mines.

(3) The rehabilitation of mine workers displaced from employment, and the relief of mine workers partially employed. The Commission's findings and recommendations shall be transmitted to the proper agency of the Government for relief, rehabilitation, and subsistence homesteads.

(4) The problem of marketing to lower distributing costs for the benefit of consumers.

(5) The Commission shall, as soon as reasonably possible after its appointment, investigate the necessity for the control of production of bituminous coal and methods of such control, including allotment of output to districts and producers within such districts, and shall hold hearings thereon, and shall report its conclusions and recommendations to the Secretary of the Interior for transmission by him to Congress not later than January 6, 1936. (Aug. 30, 1935, c. 824, § 16, 49 Stat. 1007.)

**§ 821. Complaints to Commission; hearing and orders.** Upon substantial complaint that bituminous-coal prices are excessive, and oppressive of consumers, or that any district board, or producers' marketing agency, is operating against the public interest, or in violation of this chapter, the Commission may hear such complaint, or appoint a committee to investigate the same, and its findings shall be made public; and the Commission shall make proper orders within the purview of this chapter so as to correct such abuses. Complaints may be made under this section by any State or political subdivision of a State. (Aug. 30, 1935, c. 824, § 17, 49 Stat. 1007.)

**§ 822. Complaints by Commission to Interstate Commerce Commission respecting rates and practices.** To safeguard the interests of those concerned in the mining, transportation, selling, and consumption of coal, the Commission is hereby vested with authority to make complaint to the Interstate Commerce Commission with respect to rates, charges, tariffs and practices relating to the transportation of coal, and to prosecute the same. Before proceeding to hear and dispose of any complaint filed by another than the Commission, involving the transportation of coal, the Interstate Commerce Commission shall cause the Commission to be notified of the proceeding and, upon application of the Commission, shall permit the Commission to appear and be heard. The Interstate Commerce Commission is authorized to avail itself of the cooperation, services, records and facilities of the Commission. (Aug. 30, 1935, c. 824, § 18, 49 Stat. 1007.)

**§ 823. Definitions.** The term "bituminous coal" as used in this chapter shall include all bituminous, semi-bituminous, and subbituminous coal and lignite. The term "producer" shall include all persons, firms, associations, corporations, trustees, and receivers engaged in mining bituminous coal. The term "captive coal" shall include all coal produced at a mine for consumption by the producer or by a subsidiary or affiliate thereof, or for use in the production of coke or other

forms of manufactured fuel by such producer or subsidiary or affiliate. (Aug. 30, 1935, c. 824, § 19, 49 Stat. 1007.)

**§ 824. Effective date of chapter.** Section 804 of this chapter shall become effective on the 1st day of the third calendar month after August 30, 1935, unless the Commission shall not at that time have formulated the code and forms of acceptance for membership therein, in which event section 804 of this chapter shall become effective from and after the date when the Commission shall have formulated the code and such forms for acceptance, which date shall be promulgated by Executive order of the President of the United States. All other sections of this chapter shall become effective on August 30, 1935. (Aug. 30, 1935, c. 824, § 20, 49 Stat. 1008.)

**§ 825. Duration of chapter.** This chapter shall cease to be in effect and any agencies established thereunder shall cease to exist on and after four years from August 30, 1935. (Aug. 30, 1935, c. 824, § 21, 49 Stat. 1008.)

**§ 826. Appropriation.** There is hereby authorized to be appropriated from time to time such sums as may be necessary for the administration of this chapter. (Aug. 30, 1935, c. 824, § 22, 49 Stat. 1008.)

**§ 827. Short title of chapter.** This chapter may be cited as the "Bituminous Coal Conservation Act of 1935." (Aug. 30, 1935, c. 824, § 23, 49 Stat. 1008.)

#### ANNEX TO BITUMINOUS COAL CONSERVATION ACT—SCHEDULE OF DISTRICTS

##### EASTERN PENNSYLVANIA

**District 1.** The following counties in Pennsylvania: Bedford, Blair, Bradford, Cambria, Cameron, Centre, Clarion, Clearfield, Clinton, Elk, Forest, Fulton, Huntingdon, Jefferson, Lycoming, McKean, Mifflin, Potter, Somerset, Tioga.

Armstrong County, including mines served by the P. & S. R. R. on the west bank of the Allegheny River, and north of the Conemaugh division of the Pennsylvania Railroad.

Fayette County, all mines on and east of the line of Indian Creek Valley branch of the Baltimore and Ohio Railroad.

Indiana County, north of but excluding the Saltsburg branch of the Pennsylvania Railroad between Edri and Blairsville, both exclusive.

Westmoreland County, including all mines served by the Pennsylvania Railroad, Torrance, and east.

All coal-producing counties in the State of Maryland.

The following counties in West Virginia: Grant, Mineral, and Tucker.

##### WESTERN PENNSYLVANIA

**District 2.** The following counties in Pennsylvania: Allegheny, Beaver, Butler, Greene, Lawrence, Mercer, Venango, Washington.

Armstrong County, west of the Allegheny River and exclusive of mines served by the P. & S. R. R.

Indiana County, including all mines served on the Saltsburg branch of the Pennsylvania Railroad north of Conemaugh River.

Fayette County, except all mines on and east of the line of Indian Creek Valley branch of the Baltimore and Ohio Railroad.

Westmoreland County, including all mines except those served by the Pennsylvania Railroad from Torrance, east.

##### NORTHERN WEST VIRGINIA

**District 3.** The following counties in West Virginia: Barbour, Braxton, Calhoun, Doddridge, Gilmer, Harrison, Jackson, Lewis, Marion, Monongalia, Pleasants, Preston, Randolph, Ritchie, Roane, Taylor, Tyler, Upshur, Webster, Wetzel, Wirt, Wood.

That part of Nicholas County including mines served by the Baltimore and Ohio Railroad and north.

## OHIO

District 4 All coal-producing counties in Ohio.

## MICHIGAN

District 5. All coal-producing counties in Michigan.

## PANHANDLE

District 6. The following counties in West Virginia: Brooke, Hancock, Marshall, and Ohio.

## SOUTHERN NUMBERED 1

District 7. The following counties in West Virginia: Greenbrier, Mercer, Monroe, Pocahontas, Summers.

Fayette County, east of Gauley River and including the Gauley River branch of the Chesapeake and Ohio Railroad and mines served by the Virginia Railway.

McDowell County, that portion served by the Dry Fork branch of the Norfolk and Western Railroad and east thereof.

Raleigh County, excluding all mines on the Coal River branch of the Chesapeake and Ohio Railroad.

Wyoming County, that portion served by the Gilbert branch of the Virginian Railroad lying east of the mouth of Skin Fork of Guyandot River and that portion served by the main line and the Glen Rogers branch of the Virginian Railroad.

The following counties in Virginia: Montgomery, Pulaski, Wythe, Giles, Craig.

Tazewell County, that portion served by the Dry Fork branch to Cedar Bluff and from Bluestone Junction to Boissevain branch of the Norfolk and Western Railroad and Richlands-Jewell Ridge Branch of the Norfolk and Western Railroad.

Buchanan County, that portion served by the Richlands-Jewell Ridge branch of the Norfolk and Western Railroad and that portion of said county on the head waters of Dismal Creek, east of Lynn Camp Creek (a tributary of Dismal Creek).

## SOUTHERN NUMBERED 2

District 8. The following counties in West Virginia: Boone, Clay, Kanawha, Lincoln, Logan, Mason, Mingo, Putnam, Wayne, Cabell.

Fayette County, west of, but not including mines of the Gauley River branch of the Chesapeake and Ohio Railroad.

McDowell County, that portion not served by and lying west of the Dry Fork branch of the Norfolk and Western Railroad.

Raleigh County, all mines on the Coal River branch of the Chesapeake and Ohio Railroad and north thereof.

Nicholas County, that part south of and not served by the Baltimore and Ohio Railroad.

Wyoming County, that portion served by Gilbert branch of the Virginian Railroad lying west of the mouth of Skin Fork of Guyandot River.

The following counties in Virginia: Dickinson, Lee, Russell, Scott, Wise.

All of Buchanan County, except that portion on the head waters of Dismal Creek, east of Lynn Camp Creek (tributary of Dismal Creek) and that portion served by the Richlands-Jewell Ridge branch of the Norfolk and Western Railroad.

Tazewell County, except portions served by the Dry Fork branch of Norfolk and Western Railroad and branch from Bluestone Junction to Boissevain of Norfolk and Western Railroad and Richlands-Jewell Ridge branch of the Norfolk and Western Railroad.

The following counties in Kentucky: Bell, Boyd, Breathitt, Carter, Clay, Elliott, Floyd, Greenup, Harlan, Jackson, Johnson, Knott, Knox, Laurel, Lawrence, Lee, Letcher, Leslie, McCreary, Magoffin, Martin, Morgan, Owsley, Perry, Pike, Rockcastle, Wayne, Whitley.

The following counties in Tennessee: Anderson, Campbell, Claiborne, Cumberland, Fentress, Morgan, Overton, Roane, Scott.

The following counties in North Carolina: Lee, Chat-ham, Moore.

## WEST KENTUCKY

District 9 The following counties in Kentucky: Butler, Christian, Crittenden, Daviess, Hancock, Henderson, Hopkins, Logan, McLean, Muhlenberg, Ohio, Simpson, Todd, Union, Warren, Webster.

## ILLINOIS

District 10. All coal-producing counties in Illinois.

## INDIANA

District 11. All coal-producing counties in Indiana.

## IOWA

District 12. All coal-producing counties in Iowa.

## SOUTHEASTERN

District 13. All coal-producing counties in Alabama. The following counties in Georgia: Dade, Walker. The following counties in Tennessee: Marion, Grundy, Hamilton, Bledsoe, Sequatchie, White, Van Buren, Warren, McMinn, Rhea.

## ARKANSAS—OKLAHOMA

District 14. The following counties in Arkansas: All counties in the State.

The following counties in Oklahoma: Haskell, Le Flore, Sequoyah.

## SOUTHWESTERN

District 15. All coal-producing counties in Kansas. All coal-producing counties in Texas. All coal-producing counties in Missouri.

The following counties in Oklahoma: Coal, Craig, Latimer, Muskogee, Okmulgee, Pittsburg, Rogers, Tulsa, Wagoner.

## NORTHERN COLORADO

District 16. The following counties in Colorado: Adams, Arapahoe, Boulder, Douglas, Elbert, El Paso, Jackson, Jefferson, Larimer, Weld.

## SOUTHERN COLORADO

District 17. The following counties in Colorado: All counties not included in northern Colorado district.

The following counties in New Mexico: All coal-producing counties in the State of New Mexico, except those included in the New Mexico district.

## NEW MEXICO

District 18. The following counties in New Mexico: Grant, Lincoln, McKinley, Rio Arriba, Sandoval, San Juan, San Miguel, Santa Fe, Socorro.

## WYOMING

District 19. All coal-producing counties in Wyoming.

## UTAH

District 20. All coal-producing counties in Utah.

## NORTH DAKOTA—SOUTH DAKOTA

District 21. All coal-producing counties in North Dakota. All coal-producing counties in South Dakota.

## MONTANA

District 22. All coal-producing counties in Montana.

## WASHINGTON

District 23. All coal-producing counties in Washington.





## TITLE 16.—CONSERVATION

### Chapter 1.—THE NATIONAL PARKS, MILITARY PARKS, AND MONUMENTS

#### THE NATIONAL PARK SERVICE

##### § 2. National parks, reservations, and monuments; supervision.

Creation of the "Advisory Board on National Parks, Historic Sites, Buildings, and Monuments", see section 463 of this title.

§ 6a. Same; section 6 unaffected by sections 19a to 19e of this title. Nothing in sections 19a to 19e of this title shall be construed as prohibiting or restricting the Secretary of the Interior from accepting, in the name of the United States, gifts or bequests of money for immediate disbursement or other property in the interest of the National Park Service, its activities, or its service, as heretofore authorized by law. (July 10, 1935, c. 375, § 4, 49 Stat. 478.)

#### NATIONAL PARK TRUST FUND BOARD

§ 19. National Park Trust Fund Board; creation; composition; conduct of business; compensation. A board is hereby created and established, to be known as the National Park Trust Fund Board (referred to in this section and sections 19 to 19d of this title as the Board), which shall consist of the Secretary of the Treasury, the Secretary of the Interior, the Director of the National Park Service, and two persons appointed by the President for a term of five years each (the first appointments being for three and five years, respectively). Three members of the Board shall constitute a quorum for the transaction of business, and the Board shall have an official seal, which shall be judicially noticed. The Board may adopt rules and regulations in regard to its procedure and the conduct of its business.

No compensation shall be paid to the members of the Board for their services as such members, but they shall be reimbursed for the expenses necessarily incurred by them, out of the income from the fund or funds in connection with which such expenses are incurred. (July 10, 1935, c. 375, § 1, 49 Stat. 477.)

§ 19a. Same; authority to accept and administer gifts; disposition of income; limitations. The Board is authorized to accept, receive, hold, and administer such gifts or bequests of personal property for the benefit of, or in connection with, the National Park Service, its activities, or its service, as may be approved by the Board, but no such gift or bequest which entails any expenditure not to be met out of the gift, bequest or the income thereof shall be accepted without the consent of Congress.

The moneys or securities composing the trust funds given or bequeathed to the Board shall be receipted for by the Secretary of the Treasury, who shall invest, reinvest, or retain investments as the Board may from time to time determine. The income, as and when collected, shall be covered into the Treasury of the United States in a trust fund account to be known as the "National Park Trust Fund" subject to disbursement by the Division of Disbursement, Treasury Department, for the purposes in each case specified: *Provided, however*, That the Board is not authorized to engage in any business, nor shall the Secretary of the Treasury make any investment for account of the Board that may not lawfully be made by a trust company in the District of Columbia, except that the Secretary may make any investments directly authorized by the instrument of gift, and may

retain any investments accepted by the Board. (July 10, 1935, c. 375, § 2, 49 Stat. 477.)

§ 19b. Same; succession; powers as trustee; jurisdiction of suits. The Board shall have perpetual succession, with all the usual powers and obligations of a trustee, including the power to sell, except as herein limited, in respect of all property, moneys, or securities which shall be conveyed, transferred, assigned, bequeathed, delivered or paid over to it for the purposes above specified. The Board may be sued in the Supreme Court of the District of Columbia, which is given jurisdiction of such suits, for the purpose of enforcing the provisions of any trust accepted by it. (July 10, 1935, c. 375, § 3, 49 Stat. 478.)

§ 19c. Same; exemption of gifts from taxation. Gifts or bequests to or for the benefit of the National Park Service, including those to the Board, and the income therefrom, shall be exempt from all Federal taxes. (July 10, 1935, c. 375, § 5, 49 Stat. 478.)

§ 19d. Same; report. The Board shall submit to the Congress an annual report of the moneys or securities received and held by it and of its operations. (July 10, 1935, c. 375, § 6, 49 Stat. 478.)

#### CRATER LAKE NATIONAL PARK

§ 129. Same; commissioner; appointment; powers and duties. The United States District Court for Oregon shall appoint a commissioner, who shall reside within the exterior boundaries of the Crater Lake National Park or at a place reasonably adjacent to the park, the place of residence to be designated by the Secretary of the Interior, and who shall have jurisdiction to hear and act upon all complaints made of any violations of law or of the rules and regulations made by the Secretary of the Interior for the government of the park and for the protection of the animals, birds, and fish, and objects of interest therein, and for other purposes authorized by sections 124 to 134 of this title. (As amended June 25, 1935, c. 309, § 1, 49 Stat. 422.)

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§ 132. Same; commissioner; salary; residence; fees, costs, and expenses.

This section is amended by Act June 25, 1935, c. 309, § 2, 49 Stat. 422, by striking out the words, "Provided, That the said commissioner shall reside within the exterior boundaries of said Crater Lake National Park, at a place to be designated by the court making such appointment"

§ 132a. Same; salary payable while residing outside Park. Any commissioner heretofore appointed under authority of section 129 of this title shall be entitled to receive the salary provided by law, which may have accrued on June 25, 1935, without regard to whether such commissioner or commissioners may have resided within the exterior boundaries of the Crater Lake National Park. (June 25, 1935, c. 309, § 3, 49 Stat. 422.)

#### WIND CAVE NATIONAL PARK

§ 141b. Same; Wind Cave National Game Preserve transferred to Park. Effective July 1, 1935, the Wind Cave National Game Preserve in the State of South Dakota, be, and the same is hereby, abolished, and all the property, real or personal, comprising the same is hereby transferred to and made a part of the Wind Cave National Park and the same shall hereafter be administered by the Secretary of the Interior as a part of said park, subject to all laws and regulations

applicable thereto, for the purposes expressed in section 672 of this title, establishing said game preserve. (June 15, 1935, c. 261, Title VI, § 601, 49 Stat. 383.)

#### BIG BEND NATIONAL PARK

**§ 156. Big Bend National Park; establishment.** When title to such lands as may be determined by the Secretary of the Interior as necessary for recreational park purposes within the boundaries to be determined by him within the area of approximately one million five hundred thousand acres, in the counties of Brewster and Presidio, in the State of Texas, known as the "Big Bend" area, shall have been vested in the United States, such lands shall be established, dedicated, and set apart as a public park for the benefit and enjoyment of the people and shall be known as the "Big Bend National Park": *Provided*, That the United States shall not purchase by appropriation of public moneys any land within the aforesaid area, but such lands shall be secured by the United States only by public and private donations. (June 20, 1935, c. 283, § 1, 49 Stat. 393.)

**§ 157. Same; acquisition.** The Secretary of the Interior is hereby authorized, in his discretion and upon submission of evidence of title satisfactory to him, to accept, on behalf of the United States, title to the lands referred to in section 156 of this title as may be deemed by him necessary or desirable for national-park purposes: *Provided*, That no land for the Big Bend National Park shall be accepted until exclusive jurisdiction over the entire area, in form satisfactory to the Secretary of the Interior, shall have been ceded by the State of Texas to the United States. (June 20, 1935, c. 283, § 2, 49 Stat. 393.)

**§ 158. Same; administration, protection and development.** The administration, protection, and development of the Big Bend National Park shall be exercised under the direction of the Secretary of the Interior by the National Park Service, subject to the provisions of sections 1 to 4 of this title: *Provided*, That the provisions of sections 791 to 823 of this title shall not apply to this park. (June 20, 1935, c. 283, § 3, 49 Stat. 394.)

#### CARLSBAD CAVERNS NATIONAL PARK

**§ 407d. Admission and guide fees exempt from tax.** Any admission fee charged for entrance to Carlsbad Caverns and any fee charged for guide service therein, shall be exempt from all taxes on admissions. (May 9, 1935, c. 101, § 1, 49 Stat. 207.)

#### THE NATIONAL MILITARY PARKS

**§ 430t. Kennesaw Mountain National Battlefield Park; establishment.** When title to all the lands, structures, and other property within the military battlefield area and other areas of Civil War interest at and in the vicinity of Kennesaw Mountain in the State of Georgia, as shall be designated by the Secretary of the Interior, in the exercise of his discretion, as necessary or desirable for national battlefield park purposes, shall have been vested in the United States, such areas shall be, and they are hereby, established, dedicated, and set apart as a public park for the benefit and inspiration of the people and shall be known as the "Kennesaw Mountain National Battlefield Park." (June 26, 1935, c. 315, § 1, 49 Stat. 423.)

**§ 430u. Same; donations of land; purchase and condemnation.** The Secretary of the Interior be, and he is hereby, authorized to accept donations of land, interests in land, buildings, structures, and other property within the boundaries of said national battlefield park as determined and fixed hereunder, the title and evidence of title to lands purchased to be satisfactory to the Secretary of the Interior: *Provided*, That under such funds available therefor he may acquire on behalf of the United States by purchase when purchasable at prices deemed by him reasonable, otherwise by condemnation under the provisions of sections

257 and 258 of Title 40, such tracts of land within the said national battlefield park as may be necessary for the completion thereof. (June 26, 1935, c. 315, § 2, 49 Stat. 423.)

**§ 430v. Same; monuments and memorials; regulations; historical markers.** Upon creation of the national battlefield park the Secretary of the Interior shall—

(a) Allow monuments and memorials to be erected in the park by and to the various organizations and individuals of either the Union or Confederate Armies, subject to the written approval of said Secretary as to the location and character of such monuments and memorials.

(b) Make such regulations as are necessary from time to time for the care and protection of the park. Any person violating such regulations shall be guilty of an offense punishable by a fine of not more than \$500, or imprisonment not exceeding six months, or both.

(c) Provide for the ascertainment and marking of the route of march of the Union and Confederate Armies from Chattanooga, Tennessee, through Georgia, and of principal battle lines, breastworks, fortifications, and other historical features along such route, and for the maintenance of such markers to such extent as deemed advisable and practicable. (June 26, 1935, c. 315, § 3, 49 Stat. 423.)

**§ 430w. Same; administration and supervision of Park.** That the administration, protection, and development of the aforesaid national battlefield park shall be exercised under the direction of the Secretary of the Interior by the National Park Service subject to the provisions of sections 1 to 4 of this title. (June 26, 1935, c. 315, § 4, 49 Stat. 424.)

**§ 430x. Same; appropriation.** The sum of \$100,000 is hereby authorized to be appropriated out of any sums in the Treasury not otherwise appropriated for the purposes herein designated. (June 26, 1935, c. 315, § 5, 49 Stat. 424.)

**§ 430y. Spanish War Memorial Park; establishment.** When title to such lands located on Davis Island in the city of Tampa, Florida, as shall be designated by the Secretary of the Interior, in the exercise of his judgment and discretion as necessary and suitable for the purpose, shall have been vested in the United States, said area shall be set apart as The Spanish War Memorial Park, for the benefit and inspiration of the people: *Provided*, That said lands shall be donated without cost to the United States by the city of Tampa, Florida, and the Secretary of the Interior is authorized to accept such conveyance of lands. (Aug. 20, 1935, c. 575, § 1, 49 Stat. 661.)

**§ 430z. Same; monument; construction authorized.** There is hereby authorized to be located and constructed within said memorial park a suitable monument or memorial to commemorate the patriotic services of the American forces in the War with Spain. The cost of establishing such monument or memorial, of constructing suitable side walks and approaches, and of landscaping such site, may be paid from any fund or moneys available for such purpose, except from the general fund of the Treasury; and the Secretary is for that purpose further authorized and empowered to determine upon a suitable location, plan, and design for said monument or memorial, by and with the advice of the National Commission of Fine Arts. (Aug. 20, 1935, c. 575, § 2, 49 Stat. 661.)

**§ 430z-1. Same; landscaping; employment of architects and engineers.** In the discharge of his duties hereunder, the Secretary of the Interior, through the National Park Service, is authorized to employ, in his discretion, by contract or otherwise, landscape architects, architects, artists, engineers, and/or other expert consultants in accordance with the usual customs of the several professions without reference to civil-service requirements or to sections 661 to 674 of Title 5, and that expenditures for such employment shall be construed to be included in any appropriations here-

after authorized for any work under the objectives of sections 430 to 430x of this Title. (Aug. 20, 1935, c. 575, § 3, 49 Stat. 662.)

**§ 430z-2. Same; memorials; erection authorized.** The Secretary of the Interior is further authorized, by and with the advice of the National Commission of Fine Arts, to authorize and permit the erection in said memorial park of suitable memorials in harmony with the monument and/or memorial herein authorized that may be desired to be constructed by Spanish War organizations, States, and/or foreign governments: *Provided*, That the design and location of such memorials must be approved by the Secretary of the Interior, by and with the advice of the National Commission of Fine Arts, before construction is undertaken. (Aug. 20, 1935, c. 575, § 4, 49 Stat. 662.)

**§ 430z-3. Same; administration.** The administration, protection, and development of the aforesaid Spanish War Memorial Park, including any and all memorials that may hereafter be erected thereon, shall be exercised under the direction of the Secretary of the Interior by the National Park Service. (Aug. 20, 1935, c. 575, § 5, 49 Stat. 662.)

**§ 450b. Appomattox Court House National Historical Monument; establishment.** When title to all the land, structures, and other property within a distance of one and one-half miles from the Appomattox Court House site, Virginia, as shall be designated by the Secretary of the Interior in the exercise of his discretion as necessary or desirable for national-monument purposes, shall have been vested in the United States in fee simple, such area or areas shall be, and they are hereby, established, dedicated, and set apart as a public monument for the benefit and enjoyment of the people and shall be known as the "Appomattox Court House National Historical Monument." (June 18, 1930, c. 520, § 1, 46 Stat. 777, as amended Aug. 13, 1935, c. 520, § 1, 49 Stat. 613.)

**§ 450c. Same; appropriation.** There is hereby authorized to be appropriated the sum of \$100,000, or so much thereof as may be necessary, to carry out the provisions of sections 450b, 450d and 450e of this title. (June 18, 1930, c. 520, § 2, 46 Stat. 777, as amended Aug. 13, 1935, c. 520, § 2, 49 Stat. 613.)

**§ 450d. Same; acceptance of donations of lands, etc.; acquisition of lands.** The Secretary of the Interior be, and he is hereby, authorized to accept donations of land and/or buildings, structures, and so forth, within the boundaries of said park as determined and fixed hereunder and donations of funds for the purchase and/or maintenance thereof: *Provided*, That he may acquire on behalf of the United States, by purchase when purchasable at prices deemed by him reasonable, otherwise by condemnation under the provisions of sections 257 and 258 of Title 40, such tracts of land within the said park as may be necessary for the completion thereof within the limits of the appropriation as authorized in section 450c. (June 18, 1930, c. 520, § 3, 46 Stat. 777, as amended Aug. 13, 1935, c. 520, § 1, 49 Stat. 613.)

**§ 450e. Same; administration by National Park Service.** The administration, protection, and development of the Appomattox Court House National Historical Monument shall be exercised under the direction of the Secretary of the Interior by the National Park Service. (June 18, 1930, c. 520, § 4, as added Aug. 13, 1935, c. 520, § 4, 49 Stat. 614.)

**§ 450f. Patrick Henry National Monument; establishment.** When title to the estate known as Red Hill, the estate of Patrick Henry, located in Charlotte County, Virginia, together with such buildings and other property located thereon as may be designated by the Secretary of the Interior as necessary or desirable for national monument purposes shall have been vested in the United States, said area and improvements shall be designated and set apart by proclamation of the President for the preservation as a

national monument for the benefit and inspiration of the people, and shall be called the "Patrick Henry National Monument." (Aug. 15, 1935, c. 547, § 1, 49 Stat. 652.)

**§ 450g. Same; acceptance of donations of lands, etc.; acquisition of lands.** The Secretary of the Interior is authorized to accept donations of land, interests in land and/or buildings, structures, and other property within the boundaries of said national monument as determined and fixed hereunder, and donations of funds for the purchase and/or maintenance thereof, the title and evidence of title to lands acquired to be satisfactory to the Secretary of the Interior: *Provided*, That he may acquire on behalf of the United States out of any donated funds, by purchase at prices deemed by him reasonable, or by condemnation under the provisions of sections 257 and 258 of Title 40, such tracts of land within said national monument as may be necessary for the completion thereof. (Aug. 15, 1935, c. 547, § 2, 49 Stat. 652.)

**§ 450h. Same; administration by National Park Service.** The administration, protection, and development of the aforesaid national monument shall be exercised under the direction of the Secretary of the Interior by the National Park Service. (Aug. 15, 1935, c. 547, § 3, 49 Stat. 652.)

**§ 450i. Same; restoration of cottage used as law office and use as museum.** The Secretary of the Interior is authorized and directed to make such alterations and repairs to the cottage used as a law office by Patrick Henry and to install therein such furniture and furnishings as may be necessary to (1) restore such cottage to the approximate condition and appearance possessed by it at the time of Patrick Henry's death, and (2) permit the use of such cottage as a museum for relics and records pertaining to Patrick Henry, and for other articles of national and patriotic interest. The Secretary of the Interior is authorized, in his discretion, to accept on behalf of the United States, for installation in such cottage, articles which may be offered as additions to the museum. (Aug. 15, 1935, c. 547, § 4, 49 Stat. 652.)

**§ 450j. Same; marking historical points of interest.** The Secretary of the Interior is authorized, in his discretion, to mark with monuments, tablets, or otherwise, historical points of interest within the boundaries of the Patrick Henry National Monument. (Aug. 15, 1935, c. 547, § 5, 49 Stat. 653.)

**§ 450k. Same; appropriation.** There are authorized to be appropriated such sums as may be necessary to carry out the provisions of sections 450c to 450g of this title. (Aug. 15, 1935, c. 547, § 6, 49 Stat. 653.)

**§ 450l. Fort Stanwix National Monument; establishment.** When title to the site or portion thereof at Fort Stanwix, in the State of New York, together with such buildings and other property located thereon as may be designated by the Secretary of the Interior as necessary or desirable for national monument purposes, shall have been vested in the United States, said area and improvements, if any, shall be designated and set apart by proclamation of the President for preservation as a national monument for the benefit and inspiration of the people and shall be called the "Fort Stanwix National Monument": *Provided*, That such area shall include at least that part of Fort Stanwix now belonging to the State of New York. (Aug. 21, 1935, c. 592, § 1, 49 Stat. 665.)

**§ 450m. Same; acceptance of donations of lands and funds; acquisition of land.** The Secretary of the Interior is authorized to accept donations of land, interests in land and/or buildings, structures, and other property within the boundaries of said national monument as determined and fixed hereunder, and donations of funds for the purchase and/or maintenance thereof, the title and evidence of title to lands acquired to be satisfactory to the Secretary of the Interior: *Provided*, That he may acquire on behalf

of the United States out of any donated funds, by purchase at prices deemed by him reasonable, or by condemnation under the provisions of sections 257 and 258 of Title 40, such tracts of land within the said national monument as may be necessary for the completion thereof. (Aug. 21, 1935, c. 592, § 2, 49 Stat. 666.)

§ 450n. **Same; administration.** The administration, protection, and development of the aforesaid national monument shall be exercised under the direction of the Secretary of the Interior by the National Park Service. (Aug. 21, 1935, c. 592, § 3, 49 Stat. 666.)

§ 450o. **Andrew Johnson Homestead National Monument; authorization.** When title to the site of the Andrew Johnson Homestead and the site of the tailor shop in which Andrew Johnson worked (now owned and administered by the State of Tennessee), located in Greeneville, Tennessee, together with such buildings and property located thereon as may be designated by the Secretary of the Interior as necessary or desirable for national-monument purposes shall have been vested in the United States, said area and improvements, if any, together with the burial place of Andrew Johnson, now administered as a national cemetery, shall be designated and set apart by proclamation of the President for preservation as a national monument for the benefit and inspiration of the people and shall be called the "Andrew Johnson National Monument." (Aug. 29, 1935, c. 801, § 1, 49 Stat. 958.)

§ 450p. **Same; acquisition of property; donations.** The Secretary of the Interior is authorized to acquire on behalf of the United States out of any funds allotted and made available for this project by proper authority or out of any donated funds, by purchase at prices deemed by him reasonable, or by condemnation under the provisions of sections 257 and 258 of Title 40, or to accept by donation, such land, interest in land, and/or buildings, structures, and other property within the boundaries of said national monument as determined and fixed under section 450o of this title, and he is further authorized to accept donations of funds for the purchase and/or maintenance thereof. (Aug. 29, 1935, c. 801, § 2, 49 Stat. 958.)

§ 450q. **Same; administration.** The administration, protection, and development of the aforesaid national monument shall be exercised under the direction of the Secretary of the Interior by the National Park Service, subject to the provisions of sections 1, 2 and 3 of this title. (Aug. 29, 1935, c. 801, § 3, 49 Stat. 958.)

§ 450r. **Ackia Battleground National Monument; establishment.** The Secretary of the Interior is authorized in his discretion to acquire, by purchase or by condemnation and/or accept by donation in behalf of the United States, such lands, easements, and buildings not to exceed fifty acres, and when title satisfactory to the Secretary of the Interior shall have been vested in the United States such area or areas shall be, upon proclamation of the President, established, dedicated, and set apart as a public monument for the benefit and enjoyment of the people and shall be known as the "Ackia Battleground National Monument": *Provided*, That such area shall include the site of the Battle of Ackia. (Aug. 27, 1935, c. 755, § 2, 49 Stat. 897.)

§ 450s. **Same; appropriation.** There is authorized to be appropriated, out of moneys in the Treasury not otherwise appropriated, the sum of \$15,000 to carry out the provisions of section 450r of this title. (Aug. 27, 1935, c. 755, § 3, 49 Stat. 897.)

§ 450t. **Same; administration.** The administration, protection, and development of the aforesaid national monument shall be exercised under the direction of the Secretary of the Interior by the National Park Service, subject to the provisions of sections 1 to 4 of this title. (Aug. 27, 1935, c. 755, § 4, 49 Stat. 897.)

## Chapter 1A.—HISTORIC SITES, BUILDINGS, OBJECTS, AND ANTIQUITIES

Sec.

- 461. Declaration of national policy.
- 462. Administration by Secretary of Interior; powers and duties enumerated
- 463. Advisory Board on National Parks, Historic Sites, Buildings and Monuments; creation; powers and duties
- 464. Cooperation with governmental and private agencies; employment of technical assistance.
- 465. Jurisdiction of States in lands acquired.
- 466. Appropriation.
- 467. Conflict of laws.

§ 461. **Declaration of national policy.** It is hereby declared that it is a national policy to preserve for public use historic sites, buildings and objects of national significance for the inspiration and benefit of the people of the United States. (Aug. 21, 1935, c. 593, § 1, 49 Stat. 666.)

§ 462. **Administration by Secretary of Interior; powers and duties enumerated.** The Secretary of the Interior (hereinafter referred to as the Secretary), through the National Park Service, for the purpose of effectuating the policy expressed in section 1 hereof, shall have the following powers and perform the following duties and functions:

(a) Secure, collate, and preserve drawings, plans, photographs, and other data of historic and archaeological sites, buildings, and objects.

(b) Make a survey of historic and archaeological sites, buildings, and objects for the purpose of determining which possess exceptional value as commemorating or illustrating the history of the United States.

(c) Make necessary investigations and researches in the United States relating to particular sites, buildings, or objects to obtain true and accurate historical and archaeological facts and information concerning the same.

(d) For the purpose of this chapter, acquire in the name of the United States by gift, purchase, or otherwise any property, personal or real, or any interest or estate therein, title to any real property to be satisfactory to the Secretary: *Provided*, That no such property which is owned by any religious or educational institution, or which is owned or administered for the benefit of the public shall be so acquired without the consent of the owner: *Provided further*, That no such property shall be acquired or contract or agreement for the acquisition thereof made which will obligate the general fund of the Treasury for the payment of such property, unless or until Congress has appropriated money which is available for that purpose.

(e) Contract and make cooperative agreements with States, municipal subdivisions, corporations, associations, or individuals, with proper bond where deemed advisable, to protect, preserve, maintain, or operate any historic or archaeological building, site, object, or property used in connection therewith for public use, regardless as to whether the title thereto is in the United States: *Provided*, That no contract or cooperative agreement shall be made or entered into which will obligate the general fund of the Treasury unless or until Congress has appropriated money for such purpose.

(f) Restore, reconstruct, rehabilitate, preserve, and maintain historic or prehistoric sites, buildings, objects, and properties of national historical or archaeological significance and where deemed desirable establish and maintain museums in connection therewith.

(g) Erect and maintain tablets to mark or commemorate historic or prehistoric places and events of national historical or archaeological significance.

(h) Operate and manage historic and archaeological sites, buildings, and properties acquired under the provisions of this chapter together with lands and subordinate buildings for the benefit of the public, such authority to include the power to charge reasonable visitation fees and grant concessions, leases, or permits for the use of land, building space, roads,

or trails when necessary or desirable either to accommodate the public or to facilitate administration: *Provided*, That such concessions, leases, or permits, shall be let at competitive bidding, to the person making the highest and best bid.

(i) When the Secretary determines that it would be administratively burdensome to restore, reconstruct, operate, or maintain any particular historic or archaeological site, building, or property donated to the United States through the National Park Service, he may cause the same to be done by organizing a corporation for that purpose under the laws of the District of Columbia or any State.

(j) Develop an educational program and service for the purpose of making available to the public facts and information pertaining to American historic and archaeological sites, buildings, and properties of national significance. Reasonable charges may be made for the dissemination of any such facts or information.

(k) Perform any and all acts, and make such rules and regulations not inconsistent with this chapter as may be necessary and proper to carry out the provisions thereof. Any person violating any of the rules and regulations authorized by this chapter shall be punished by a fine of not more than \$500 and be adjudged to pay all cost of the proceedings. (Aug. 21, 1935, c. 593, § 2, 49 Stat. 666.)

§ 463. **Advisory Board on National Parks, Historic Sites, Buildings, and Monuments; creation; powers, and duties.** A general advisory board to be known as the "Advisory Board on National Parks, Historic Sites, Buildings, and Monuments" is hereby established, to be composed of not to exceed eleven persons, citizens of the United States, to include representatives competent in the fields of history, archaeology, architecture, and human geography, who shall be appointed by the Secretary and serve at his pleasure. The members of such board shall receive no salary but may be paid expenses incidental to travel when engaged in discharging their duties as such members.

It shall be the duty of such board to advise on any matters relating to national parks and to the administration of this chapter submitted to it for consideration by the Secretary. It may also recommend policies to the Secretary from time to time pertaining to national parks and to the restoration, reconstruction, conservation, and general administration of historic and archaeological sites, buildings, and properties. (Aug. 21, 1935, c. 593, § 3, 49 Stat. 667.)

§ 464. **Cooperation with governmental and private agencies; employment of technical assistance.** The Secretary, in administering this chapter, is authorized to cooperate with and may seek and accept the assistance of any Federal, State, or municipal department or agency, or any educational or scientific institution, or any patriotic association, or any individual.

(b) When deemed necessary, technical advisory committees may be established to act in an advisory capacity in connection with the restoration or reconstruction of any historic or prehistoric building or structure.

(c) Such professional and technical assistance may be employed without regard to the civil-service laws, and such service may be established as may be required to accomplish the purposes of this chapter and for which money may be appropriated by Congress or made available by gifts for such purpose. (Aug. 21, 1935, c. 593, § 4, 49 Stat. 668.)

§ 465. **Jurisdiction of States in lands acquired.** Nothing in this chapter shall be held to deprive any State, or political subdivision thereof, of its civil and criminal jurisdiction in and over lands acquired by the United States under this chapter. (Aug. 21, 1935, c. 593, § 5, 49 Stat. 668.)

§ 466. **Appropriation.** There is authorized to be appropriated for carrying out the purposes of this chapter such sums as the Congress may from time to time determine. (Aug. 21, 1935, c. 593, § 6, 49 Stat. 668.)

§ 467. **Conflict of laws.** The provisions of this chapter shall control if any of them are in conflict with any other Act or Acts relating to the same subject matter. (Aug. 21, 1935, c. 593, § 7, 49 Stat. 668.)

## Chapter 2.—THE NATIONAL FORESTS

### ESTABLISHMENT AND ADMINISTRATION

§ 486. **Exchange of lands in national forests; reservations of timber, minerals, or easements.**

By Act June 25, 1935, c. 308, 49 Stat. 422, it was provided that this section should be extended and made applicable to exchanges of lands under the Acts of Congress approved February 14, 1923 (42 Stat. 1245), and February 7, 1929 (45 Stat. 1154), which authorize the United States to acquire privately owned lands situated within certain townships in the Lincoln National Forest in the State of New Mexico, by exchanging therefor an equal value of unreserved and unappropriated public lands within said State.

§ 486d-1. **Same; lands adjacent to Chelan National Forest.** The provisions of section 485 are extended and made applicable to any lands within four miles of the present boundaries of the Chelan National Forest. Lands conveyed to the United States under this section shall, upon acceptance of title, become parts of the Chelan National Forest and subject to all laws relating thereto. Any lands in public ownership lying within the area described in this section and found to be valuable for national-forest purposes may, upon recommendation of the Secretaries of Agriculture and of the Interior, be added to the Chelan National Forest by proclamation of the President: *Provided, however*, That nothing contained herein shall affect prior valid existing claims or entries or prior existing withdrawals or reservations. (Aug. 2, 1935, c. 424, 49 Stat. 508.)

§ 519a. **Transfer of forest reservation lands for military purposes.** If any of the lands purchased or to be purchased by the United States under the provisions of sections 513-521 of this title, within the limits of townships 1, 2, and 3 north, ranges 9, 10, 11, 12, and 13, in Forrest and Perry Counties, State of Mississippi, are determined to be chiefly valuable and necessary for a National Guard encampment and related military purposes, the Secretary of Agriculture, with the consent and approval of the National Forest Reservation Commission established by section 513 of this title, may, and he hereby is, authorized to convey full title to said lands to the State of Mississippi or the War Department of the United States: *Provided*, That there is paid into the Treasury of the United States, or made available by transfer on the books of said Treasury, sums of money equal to the full amounts expended by the Department of Agriculture for the purchase of said lands, and the money so paid into or transferred on the books of the Treasury shall be available for expenditure by the Secretary of Agriculture for the purchase of other lands under the provisions of said sections 513-521. (Mar. 2, 1935, c. 21, 49 Stat. 37.)

## Chapter 3.—FOREST PROTECTION; FOREST SERVICE; REFORESTATION

§ 567a. **Cooperation by Secretary of Agriculture with states in acquisition and administration of state forests.** For the purpose of stimulating the acquisition, development, and proper administration and management of State forests and of insuring coordinated effort by Federal and State agencies in carrying out a comprehensive national program of forest-land management, the Secretary of Agriculture is hereby authorized to enter into cooperative agreements with appropriate officials of any State or States for acquiring in the name of the United States, by purchase or otherwise, such forest lands within the co-operating State as in his judgment the State is adequately prepared to administer, develop, and manage as State forests in accordance with the provisions of this section and section 567b and with such other terms not inconsistent therewith as he shall prescribe,

such acquisition to include the mapping, examination, appraisal, and surveying of such lands and the doing of all things necessary to perfect title thereto in the United States: *Provided*, That, since it is the declared policy of Congress to maintain and, where it is in the national interest to extend the national-forest system, nothing herein shall be construed to modify, limit, or change in any manner whatsoever the future ownership and administration by the United States of existing national forests and related facilities, or hereafter to restrict or prevent their extension through the acquisition by purchase or otherwise of additional lands for any national-forest purpose: *Provided further*, That this section and section 567b shall not be construed to limit or repeal any legislation authorizing land exchanges by the Federal Government, and private lands acquired by exchange within the limits of any area subject to a cooperative agreement of the character herein authorized shall hereafter be subject to the provisions of this section and section 567b. (Aug. 29, 1935, c. 808, § 1, 49 Stat. 963.)

**§ 567b. Conditions and requirements for cooperation in acquisition and management of state forests.** No cooperative agreement shall be entered into or continued in force under the authority of section 567a or any land acquired hereunder turned over to the cooperating State for administration, development, and management unless the State concerned, as a consideration for the benefits extended to it thereunder, complies in a manner satisfactory to the Secretary of Agriculture with the following conditions and requirements which shall constitute a part of every such agreement:

(a) In order to reduce the need for public expenditures in the acquisition of lands which may be brought into public ownership through the enforcement of appropriate tax delinquency laws, and, by bringing about the handling of such lands upon a sound social and economic basis, to terminate a system of indeterminate and unsound ownership injurious to the private and public interest alike, no additional lands shall be acquired within any State by the United States under section 567a after June 30, 1942, unless the State concerned has prior thereto provided by law for the reversion of title to the State or a political unit thereof of tax-delinquent lands and for blocking into State or other public forests the areas which are more suitable for public than private ownership, and which in the public interest should be devoted primarily to the production of timber crops and/or the maintenance of forests for watershed protection, and for the enforcement of such law: *Provided*, That in the administration of this section and sections 567a and 567c prior to June 30, 1942, preference will be given to States applying for cooperation hereunder which provide by law for such reversion of title under tax delinquency laws.

(b) In order to insure a stable and efficient organization for the development and administration of the lands acquired under this section and sections 567a and 567c, the State shall provide for the employment of a State forester, who shall be a trained forester of recognized standing.

(c) The Secretary of Agriculture and the appropriate authorities of each cooperating State shall work out a mutually satisfactory plan defining forest areas within the State which can be most effectively and economically administered by said State, which plan shall constitute a part of the cooperative agreement between the United States and the State concerned: *Provided*, That nothing herein shall be held to prevent the Secretary of Agriculture from later agreeing with the proper State authorities to desirable modifications in such plan.

(d) No payment of Federal funds shall be made for land selected for purchase by the United States under this section and sections 567a and 567c until such proposed purchase has been submitted to and approved by the National Forest Reservation Commission created by section 513 of this title.

(e) Subject to the approval of the National Forest Reservation Commission, the Secretary of Agriculture is authorized to pay out of any available money appropriated for carrying out the purposes of this section and sections 567a and 567c any State, county, and/or town taxes, exclusive of penalties, due or accrued on any forest lands acquired by the United States under donations from the owners thereof and which lands are to be included in a State or other public forest pursuant to this section and sections 567a and 567c.

(f) The State shall prepare such standards of forest administration, development, and management as are necessary to insure maximum feasible utility for timber production and watershed protection, and are acceptable to the Secretary of Agriculture and shall apply the same to lands acquired and placed under the jurisdiction of the State pursuant to this section and sections 567a and 567c.

(g) That with the exception of such Federal expenditures as may be made for unemployment relief, the State shall pay without assistance from the Federal Government the entire future cost of administering, developing, and managing all forest lands acquired and over which it has been given jurisdiction under this section and sections 567a and 567c.

(h) During the period any cooperative agreement made under this section and sections 567a and 567c remains in force, one-half of the gross proceeds from all lands covered by said agreement and to which the United States holds title shall be paid by the State to the United States and covered into the Treasury. All such payments shall be credited to the purchase price the State is to pay the United States for said land, such purchase price to be an amount equal to the total sum expended by the United States in acquiring said lands. Upon payments of the full purchase price, either as herein provided or otherwise, title to said lands shall be transferred from the Federal Government to the State, and the Secretary of Agriculture is authorized to take such action and incur such expenditures, as may be necessary to effectuate such transfer.

(i) Upon the request of the State concerned, any agreement made pursuant to this section and section 567a of this title may be terminated by the Secretary of Agriculture. The Secretary of Agriculture may, with the consent and approval of the National Forest Reservation Commission, after due notice given the State and an opportunity for hearing by said Commission, terminate any such agreement for violations of its terms and/or the provisions of this section and section 567a of this title. If such agreement is terminated, the United States shall reimburse the State for so much of the State funds as have been expended in the administration, development, and management of the lands involved as the Secretary of Agriculture may decide to be fair and equitable.

(j) The State shall furnish the Secretary of Agriculture with such annual, periodic, or special reports as he may require respecting the State's operations under its agreement with him.

(k) When a State or political unit thereof acquires under tax delinquency laws title to forest lands without cost to the United States and which lands are included within a State or other public forest, the Secretary of Agriculture, on behalf of the Federal Government, may contribute annually out of any funds made available under section 567c of this title not to exceed one-half the cost of administering, developing, and managing said lands. (Aug. 29, 1935, c. 808, § 2, 49 Stat. 963.)

**§ 567c. Appropriation for cooperation in acquisition and management of state forests.** For the purposes of sections 567a and 567b of this title, there is hereby authorized to be appropriated, a sum or sums out of any money in the Treasury not otherwise appropriated, not to exceed \$5,000,000, as Congress may from time to time appropriate. (Aug. 29, 1935, c. 808, § 3, 49 Stat. 965.)



### Chapter 3A.—UNEMPLOYMENT RELIEF THROUGH PERFORMANCE OF USEFUL PUBLIC WORK

#### § 590. Duration of authority of President.

Extension of duration of authority of President, see section 14 of the Emergency Relief Appropriation Act of 1935 set out in note to section 728 of Title 15.

### Chapter 3B.—SOIL CONSERVATION

Sec.

590a. Prevention of soil erosion; surveys and investigations; preventive measures; cooperation with agencies and persons; acquisition of land

590b. Lands on which preventive measures may be taken.

590c. Conditions under which benefits of law extended nongovernment controlled lands.

590d. Cooperation of governmental agencies; officers and employees, appointment and compensation; expenditures for personal services and supplies

590e. Soil Conservation Service; establishment; utilization and transfer of existing governmental agencies.

590f. Appropriation authorized.

§ 590a. Prevention of soil erosion; surveys and investigations; preventive measures; cooperation with agencies and persons; acquisition of land. It is hereby recognized that the wastage of soil and moisture resources on farm, grazing, and forest lands of the Nation, resulting from soil erosion, is a menace to the national welfare and that it is hereby declared to be the policy of Congress to provide permanently for the control and prevention of soil erosion and thereby to preserve natural resources, control floods, prevent impairment of reservoirs, and maintain the navigability of rivers and harbors, protect public health, public lands and relieve unemployment, and the Secretary of Agriculture, from now on, shall coordinate and direct all activities with relation to soil erosion and in order to effectuate this policy is hereby authorized, from time to time—

(1) To conduct surveys, investigations, and research relating to the character of soil erosion and the preventive measures needed, to publish the results of any such surveys, investigations, or research, to disseminate information concerning such methods, and to conduct demonstrational projects in areas subject to erosion by wind or water;

(2) To carry out preventive measures, including, but not limited to, engineering operations, methods of cultivation, the growing of vegetation, and changes in use of land;

(3) To cooperate or enter into agreements with, or to furnish financial or other aid to, any agency, governmental or otherwise, or any person, subject to such conditions as he may deem necessary, for the purposes of this chapter; and

(4) To acquire lands, or rights or interests therein, by purchase, gift, condemnation, or otherwise, whenever necessary for the purposes of this chapter. (Apr. 27, 1935, c. 85, § 1, 49 Stat. 163.)

§ 590b. Lands on which preventive measures may be taken. The acts authorized in section 590a (1) and (2) may be performed—

(a) On lands owned or controlled by the United States or any of its agencies, with the cooperation of the agency having jurisdiction thereof; and

(b) On any other lands, upon obtaining proper consent or the necessary rights or interests in such lands. (Apr. 27, 1935, c. 85, § 2, 49 Stat. 163.)

§ 590c. Conditions under which benefits of law extended nongovernment controlled lands. As a condition to the extending of any benefits under this chapter to any lands not owned or controlled by the United States or any of its agencies, the Secretary of Agriculture may, insofar as he may deem necessary for the purposes of this chapter, require—

(1) The enactment and reasonable safeguards for the enforcement of State and local laws imposing suitable permanent restrictions on the use of such lands and otherwise providing for the prevention of soil erosion;

(2) Agreements or covenants as to the permanent use of such lands; and

(3) Contributions in money, services, materials, or otherwise, to any operations conferring such benefits. (Apr. 27, 1935, c. 85, § 3, 49 Stat. 163.)

§ 590d. Cooperation of governmental agencies; officers and employees, appointment and compensation; expenditures for personal services and supplies. For the purposes of this chapter, the Secretary of Agriculture may—

(1) Secure the cooperation of any governmental agency;

(2) Subject to the provisions of the civil-service laws and sections 661 to 674 of Title 5, appoint and fix compensation of such officers and employees as he may deem necessary, except for a period not to exceed eight months from the date of this enactment, the Secretary of Agriculture may make appointments and may continue employees of the organization heretofore established for the purpose of administering those provisions of chapter 8 of Title 40 which relate to the prevention of soil erosion, without regard to the civil-service laws or regulations and sections 661 to 674 of Title 5; and any persons with technical or practical knowledge may be employed and compensated under this chapter on a basis to be determined by the Civil Service Commission; and

(3) Make expenditures for personal services and rent in the District of Columbia and elsewhere, for the purchase of law books and books of reference, for printing and binding, for the purchase, operation, and maintenance of passenger-carrying vehicles, and perform such acts, and prescribe such regulations, as he may deem proper to carry out the provisions of this chapter. (Apr. 27, 1935, c. 85, § 4, 49 Stat. 164.)

§ 590e. Soil Conservation Service; establishment; utilization and transfer of existing governmental agencies. The Secretary of Agriculture shall establish an agency to be known as the "Soil Conservation Service", to exercise the powers conferred on him by this chapter and may utilize the organization heretofore established for the purpose of administering those provisions of sections 402 and 403 of Title 46 which relate to the prevention of soil erosion, together with such personnel thereof as the Secretary of Agriculture may determine, and all unexpended balances of funds heretofore allotted to said organization shall be available until June 30, 1937, and the Secretary of Agriculture shall assume all obligations incurred by said organization prior to transfer to the Department of Agriculture. Funds provided in H. J. Res. 117, "An Act making appropriation for relief purposes" [set out in note under section 728 of Title 15] (for soil erosion) shall be available for expenditure under the provisions of this chapter; and in order that there may be proper coordination of erosion-control activities the Secretary of Agriculture may transfer to the agency created under this chapter such functions, funds, personnel, and property of other agencies in the Department of Agriculture as he may from time to time determine. (Apr. 27, 1935, c. 85, § 5, 49 Stat. 164.)

§ 590f. Appropriation authorized. There are hereby authorized to be appropriated for the purposes of this chapter such sums as Congress may from time to time determine to be necessary. (Apr. 27, 1935, c. 85, § 6, 49 Stat. 164.)

### Chapter 4.—PROTECTION OF TIMBER, AND DEPREDATIONS

§ 611a. Same; citizens of Bear Lake County, Idaho. The Secretary of the Interior is authorized to grant permits subject to the provisions of section 607 of this title, to citizens of Bear Lake County, Idaho, to cut and remove timber on the unappropriated public domain in Lincoln County, Wyoming, for domestic use in Bear Lake County, Idaho: *Provided*, That no live standing timber shall be taken without compensation. (Mar. 3, 1891, c. 561, § 8, 26 Stat. 1099; Aug. 21, 1935, c. 591, 49 Stat. 665.)

## Chapter 6.—GAME AND BIRD PRESERVES; PROTECTION

### § 672. Wind Cave National Game Preserve.

Transfer to Wind Cave National Park, see section 141b of this title.

## Chapter 7.—PROTECTION OF MIGRATORY GAME AND INSECTIVOROUS BIRDS

### MIGRATORY BIRD CONSERVATION ACT

§ 715d-1. Acceptance of land in exchange for other land or timber, etc., rights. That when the public interests will be benefited thereby the Secretary of Agriculture is authorized, in his discretion, to accept on behalf of the United States title to any land which he deems chiefly valuable for wildlife refuges, and in exchange therefor to convey by deed on behalf of the United States an equal value of lands acquired by him for like purposes, or he may authorize the grantor to cut and remove from such lands an equal value of timber, hay, or other products, or to otherwise use said lands, when compatible with the protection of the wildlife thereon, the values in each case to be determined by said Secretary. Timber or other products so granted shall be cut and removed, and other uses exercised, under the laws and regulations applicable to such refuges and under the direction of the Secretary of Agriculture and under such supervision and restrictions as he may prescribe. Any lands acquired by the Secretary of Agriculture under the terms of this section shall immediately become a part of the refuge or reservation of which the lands, timber, and other products or uses given in exchange were or are a part and shall be administered under the laws and regulations applicable to such refuge or reservation. (June 15, 1935, c. 261, Title III, § 302, 49 Stat. 382.)

§ 715d-2. Acceptance of land in exchange for patent to nonmineral public land. When the public interests will be benefited thereby the Secretary of the Interior is authorized, in his discretion, to accept on behalf of the United States title to any lands which, in the opinion of the Secretary of Agriculture, are chiefly valuable for migratory bird or other wildlife refuges, and in exchange therefor may patent not to exceed an equal value of surveyed or unsurveyed, unappropriated, and unreserved nonmineral public lands of the United States in the same State, the value in each case to be determined by the Secretary of Agriculture. Before any such exchange is effected notice thereof, reciting the lands involved, shall be published once each week for four successive weeks in some newspaper of general circulation in the county or counties in which may be situated the lands proposed to be granted by the United States in such exchange. Lands conveyed to the United States under this section shall be held and administered by the Secretary of Agriculture under the terms of section 715i of this title, and all the provisions of said section are hereby extended to and shall be applicable to the lands so acquired. (June 15, 1935, c. 261, Title III, § 303, 49 Stat. 382.)

§ 715d-3. Allocation of funds for acquisition of refuges. The President of the United States is hereby authorized to allocate out of moneys appropriated to him under the terms of Public Resolution Numbered 11, Seventy-fourth Congress, approved April 8, 1935 [Title 15, § 728, note], such sum as he may deem necessary or advisable for the acquisition by purchase, or otherwise, including the necessary expenses incidental thereto, of areas of land and water or land or water for game bird and animal refuges and for migratory bird sanctuaries and refuges, to be expended in accordance with the provisions of the said Public Resolution Numbered 11. (June 15, 1935, c. 261, Title V, § 501, 49 Stat. 383.)

§ 715e. Same; examination of title; easements and reservations. The Secretary of Agriculture may do all things and make all expenditures necessary to se-

cure the safe title in the United States to the areas which may be acquired under sections 715 to 715r of this title, but no payment shall be made for any such areas until the title thereto shall be satisfactory to the Attorney General, but the acquisition of such areas by the United States shall in no case be defeated because of rights-of-way, easements, and reservations which from their nature will in the opinion of the Secretary of Agriculture in no manner interfere with the use of the areas so encumbered for the purposes of sections 715 to 715r of this title; but such rights-of-way, easements, and reservations retained by the grantor or lessor from whom the United States receives title under sections 715 to 715r of this title or any other Act for the acquisition by the Secretary of Agriculture of areas for wildlife refuges shall be subject to rules and regulations prescribed by the Secretary of Agriculture for the occupation, use, operation, protection, and administration of such areas as inviolate sanctuaries for migratory birds or as refuges for wildlife; and it shall be expressed in the deed or lease that the use, occupation, and operation of such rights-of-way, easements, and reservations shall be subordinate to and subject to such rules and regulations as are set out in such deed or lease or, if deemed necessary by the Secretary of Agriculture, to such rules and regulations as may be prescribed by him from time to time. (As amended June 15, 1935, c. 261, Title III, § 301, 49 Stat. 381.)

§ 715e-1. Application of section 715e to sections 715d-1 and 715d-2. All the provisions of section 715e of this title, relating to rights-of-way, easements, and reservations shall apply equally to exchanges effected under the provisions of sections 715d-1 and 715d-2, and in any such exchanges the value of such rights-of-way, easements, and reservations shall be considered in determining the relation of value of the lands received by the United States to that of the land conveyed by the United States. (June 15, 1935, c. 261, Title III, § 304, 49 Stat. 382.)

§ 715k-1. Continuance of appropriations. There is hereby appropriated out of the unexpended balance of the sum of \$3,300,000,000 appropriated by the Act of June 16, 1933 (48 Stat. 274), making appropriations to supply deficiencies in certain appropriations for the fiscal year ending June 30, 1933, and for other purposes, the sum of \$6,000,000, which shall remain available until expended, to enable the Secretary of Agriculture to acquire by purchase or otherwise such lands as may be necessary in his opinion adequately to provide for the restoration, rehabilitation, and protection of migratory waterfowl and other wildlife and to erect and construct thereon and in connection therewith such buildings, dikes, dams, canals, and other works as may be necessary; and in the execution of this Act the Secretary of Agriculture is authorized to make such expenditures for personal services in the District of Columbia and elsewhere as he shall deem necessary. (June 15, 1935, c. 261, Title VII, 49 Stat. 384.)

§ 715s. Participation of States in revenues from refuges after deduction of expenses. Twenty-five per centum of all money received during each fiscal year from the sale or other disposition of surplus wildlife, or of timber, hay, grass, or other spontaneous products of the soil, shell, sand, or gravel, and from other privileges on refuges established under sections 715 to 715r of this title, or under any other law, proclamation, or Executive order, administered by the Bureau of Biological Survey of the United States Department of Agriculture, shall be paid at the end of such year by the Secretary of the Treasury to the county or counties in which such refuge is situated, to be expended for the benefit of the public schools and roads in the county or counties in which such refuge is situated: *Provided*, That when any such refuge is in more than one State or Territory or county or subdivision, the distributive share to each from the proceeds of such refuge shall be proportional to its area therein: *Provided further*, That the disposition or sale of surplus animals and products and the grant

of privileges on said wildlife refuges may be made upon such terms and conditions as the Secretary of Agriculture shall determine to be for the best interests of government or for the advancement of knowledge and the dissemination of information regarding the conservation of wildlife, including sale in the open market, exchange for animals of the same or other kinds, and gifts or loans to public or private institutions for exhibition or propagation: *And provided further*, That out of any moneys received from the grant, sale, or disposition of such animals, products, or privileges, or as a bonus upon the exchange of such animals the Secretary of Agriculture is authorized to pay any necessary expenses incurred in connection with and for the purpose of effecting the removal, grant, disposition, sale, or exchange of such animals, products, or privileges; and in all cases such expenditures shall be deducted from the gross receipts of the refuge before the Secretary of the Treasury shall distribute the 25 per centum thereof to the States as hereinbefore provided. (June 15, 1935, c. 261, Title IV, § 401, 49 Stat. 383.)

#### HUNTING STAMP TAX

**§ 718a. Hunting stamp for taking migratory waterfowl.** No person over sixteen years of age shall take any migratory waterfowl unless at the time of such taking he carries on his person an unexpired Federal migratory-bird hunting stamp validated by his signature written by himself in ink across the face of the stamp prior to his taking such birds; except that no such stamp shall be required for the taking of migratory waterfowl by Federal or State institutions or official agencies, or for propagation, or by the resident owner, tenant, or share cropper of the property or officially designated agencies of the Department of Agriculture for the killing, under such restrictions as the Secretary of Agriculture may by regulation prescribe, of such waterfowl when found injuring crops or other property. Any person to whom a stamp has been sold under section 718b shall upon request exhibit such stamp for inspection to any officer or employee of the Department of Agriculture authorized to enforce the provisions of sections 718 to 718h of this title or to any officer of any State or any political subdivision thereof authorized to enforce game laws. (As amended June 15, 1935, c. 261, Title I, § 1, 49 Stat. 379.)

**§ 718b. Issuance of stamp; fees.** The stamps required by section 718a shall be issued and sold by the Post Office Department under regulations prescribed by the Postmaster General: *Provided*, That the stamps shall be sold at all post offices of the first- and second-class and at such others as the Postmaster General shall direct. For each such stamp sold under the provisions of this section there shall be collected by the Post Office Department the sum of \$1. No such stamp shall be valid under any circumstances to authorize the taking of migratory waterfowl except in compliance with Federal and State laws and regulations and then only when the person so taking such waterfowl shall himself have written his signature in ink across the face of the stamp prior to such taking. Each such stamp shall expire and be void after the 30th day of June next succeeding its issuance and all such stamps remaining unsold by the Post Office Department at the expiration of said June 30 shall be destroyed by said Department. No stamp sold under section 718a shall be redeemable by said Department in cash or in kind. (As amended June 15, 1935, c. 261, Title I, § 2, 49 Stat. 379.)

**§ 718d. Disposition of receipts from sale of stamp.** All moneys received for such stamps shall be accounted for by the Post Office Department and paid into the Treasury of the United States, and shall be reserved and set aside as a special fund to be known as the migratory bird conservation fund, to be administered by the Secretary of Agriculture. All moneys received into such fund are appropriated for the following objects and shall be available therefor until expended:

(a) Not less than 90 per centum shall be available for the location, ascertainment, acquisition, adminis-

tration, maintenance, and development of suitable areas for inviolate migratory-bird sanctuaries, under the provisions of sections 715 to 715r, inclusive, of this title, to be expended for such purposes in all respects as moneys appropriated pursuant to the provisions of said sections; for the administration, maintenance, and development of other refuges under the administration of the Secretary of Agriculture, frequented by migratory game birds; and for such investigations on such refuges and elsewhere in regard to migratory waterfowl as the Secretary of Agriculture may deem essential for the highest utilization of the refuges and for the protection and increase of these birds.

(b) The remainder shall be available for expenses in executing sections 718 to 718h, 715 to 715r, 703 to 711 of this title, and any other Act to carry into effect any treaty for the protection of migratory birds, including personal services in the District of Columbia and elsewhere, and also including advance allotments to be made by the Secretary of Agriculture to the Post Office Department at such times and in such amounts as may be mutually agreed upon by the Secretary of Agriculture and the Postmaster General for direct expenditure by the Post Office Department for engraving, printing, issuing, selling, and accounting for migratory bird hunting stamps and moneys received from the sale thereof, personal services in the District of Columbia and elsewhere, and for such other expenses as may be necessary in executing the duties and functions required of the Postal Service by sections 718 to 718h of this title: *Provided*, That the protection of said inviolate migratory-bird sanctuaries shall be, so far as possible, under section 715p of this title. (As amended June 15, 1935, c. 261, Title I, §§ 3, 4, 49 Stat. 379, 380.)

**§ 718e. Offenses.** (a) No person to whom has been sold a migratory-bird hunting stamp, validated as provided in section 718a of this title, shall loan or transfer such stamp to any person during the period of its validity; nor shall any person other than the person validating such stamp use it for any purpose during such period.

(b) No person shall alter, mutilate, imitate, or counterfeit any stamp authorized by sections 718 to 718h of this title, or imitate or counterfeit any die, plate, or engraving therefor, or make, print, or knowingly use, sell, or have in his possession any such counterfeit, die, plate, or engraving. (As amended June 15, 1935, c. 261, Title I, § 5, 49 Stat. 380.)

#### Chapter 10.—NORTHERN PACIFIC HALIBUT FISHERY

##### NORTHERN PACIFIC HALIBUT ACT OF 1924

§§ 761-769.

"47 Stat." in line 1 of note should be "43 Stat."

#### Chapter 12.—FEDERAL POWER ACT

Application to national parks—  
To Big Bend National Park, see section 158 of this title.

#### PART I—REGULATION OF THE DEVELOPMENT OF WATER POWER AND RESOURCES

Section 212 of Act of Aug. 26, 1935, c. 687, 49 Stat. 847, provided that sections 1 to 29 of the Federal Water Power Act, as amended (§§ 791-823 of this chapter) shall constitute Part I of the Act, as set out above. Said section 212 also repealed sections 25 and 30 of the Act (§§ 819, 791, of this chapter). It also contained a proviso as follows: "That nothing in that Act, as amended, shall be construed to repeal or amend the provisions of the amendment to the Federal Water Power Act approved March 3, 1921 (41 Stat. 1353 [§ 797 of this chapter]), or the provisions of any other Act relating to national parks and national monuments."

**§ 791. Short title of chapter.** [Repealed.]

This section was repealed by Act of Aug. 26, 1935, c. 687, Title II, § 212, 49 Stat. 847. See section 791a, post.

**§ 791a. Short title of chapter.** This chapter may be cited as the "Federal Power Act." (June 10, 1920, c.

285, § 320, as added Aug. 26, 1935, c. 687, Title II, § 213, 49 Stat 863.)

See section 791, ante.

§ 796. Words used in chapter defined. The words defined in this section shall have the following meanings for purposes of this chapter, to wit:

(1) "public lands" means such lands and interest in lands owned by the United States as are subject to private appropriation and disposal under public land laws. It shall not include "reservations", as hereinafter defined;

(2) "reservations" means national forests, tribal lands embraced within Indian reservations, military reservations, and other lands and interests in lands owned by the United States, and withdrawn, reserved, or withheld from private appropriation and disposal under the public land laws; also lands and interests in lands acquired and held for any public purposes; but shall not include national monuments or national parks;

(3) "corporation" means any corporation, joint-stock company, partnership, association, business trust, organized group of persons, whether incorporated or not, or a receiver or receivers, trustee or trustees of any of the foregoing. It shall not include "municipalities" as hereinafter defined;

(4) "person" means an individual or a corporation;

(5) "licensee" means any person, State, or municipality licensed under the provisions of section 797 of this chapter, and any assignee or successor in interest thereof;

(6) "State" means a State admitted to the Union, the District of Columbia, and any organized Territory of the United States;

(7) "municipality" means a city, county, irrigation district, drainage district, or other political subdivision or agency of a State competent under the laws thereof to carry on the business of developing, transmitting, utilizing, or distributing power;

(8) "navigable waters" means those parts of streams or other bodies of water over which Congress has jurisdiction under its authority to regulate commerce with foreign nations and among the several States, and which either in their natural or improved condition notwithstanding interruptions between the navigable parts of such streams or waters by falls, shallows, or rapids compelling land carriage, are used or suitable for use for the transportation of persons or property in interstate or foreign commerce, including therein all such interrupting falls, shallows, or rapids, together with such other parts of streams as shall have been authorized by Congress for improvement by the United States or shall have been recommended to Congress for such improvement after investigation under its authority;

(9) "municipal purposes" means and includes all purposes within municipal powers as defined by the constitution or laws of the State or by the charter of the municipality;

(10) "Government dam" means a dam or other work constructed or owned by the United States for Government purposes with or without contribution from others;

(11) "project" means complete unit of improvement or development, consisting of a power house, all water conduits, all dams and appurtenant works and structures (including navigation structures) which are a part of said unit, and all storage, diverting, or forebay reservoirs directly connected therewith, the primary line or lines transmitting power therefrom to the point of junction with the distribution system or with the interconnected primary transmission system, all miscellaneous structures used and useful in connection with said unit or any part thereof, and all water-rights, rights-of-way, ditches, dams, reservoirs, lands, or interest in lands the use and occupancy of which are necessary or appropriate in the maintenance and operation of such unit;

(12) "project works" means the physical structures of a project;

(13) "net investment" in a project means the actual legitimate original cost thereof as defined and interpreted in the "classification of investment in road and equipment of steam roads, issue of 1914, Interstate Commerce Commission", plus similar costs of additions thereto and betterments thereof, minus the sum of the following items properly allocated thereto, if and to the extent that such items have been accumulated during the period of the license from earnings in excess of a fair return on such investment: (a) Unappropriated surplus, (b) aggregate credit balances of current depreciation accounts, and (c) aggregate appropriations of surplus or income held in amortization, sinking fund, or similar reserves, or expended for additions or betterments or used for the purposes for which such reserves were created. The term "cost" shall include, insofar as applicable, the elements thereof prescribed in said classification, but shall not include expenditures from funds obtained through donations by States, municipalities, individuals, or others, and said classification of investment of the Interstate Commerce Commission shall insofar as applicable be published and promulgated as a part of the rules and regulations of the Commission;

(14) "Commission" and "Commissioner" means the Federal Power Commission, and a member thereof, respectively;

(15) "State commission" means the regulatory body of the State or municipality having jurisdiction to regulate rates and charges for the sale of electric energy to consumers within the State or municipality;

(16) "security" means any note, stock, treasury stock, bond, debenture, or other evidence of interest in or indebtedness of a corporation subject to the provisions of this chapter. (As amended Aug. 26, 1935, c. 687, Title II, § 201, 49 Stat. 838.)

§ 797. General powers of commission.—*Investigations and data.* (a) \* \* \*. The Commission is hereby authorized and empowered— \* \* \*

Act Aug 26, 1935, c. 687, Title II, § 202, struck out last paragraph of subsection (a). Its subject matter is embodied in subsection (b).

*Statements as to investment of licenses in projects; access to projects, maps and so forth.* (b) To determine the actual legitimate original cost of and the net investment in a licensed project, and to aid the Commission in such determinations, each licensee shall, upon oath, within a reasonable period of time to be fixed by the Commission, after the construction of the original project or any addition thereto or betterment thereof, file with the Commission in such detail as the Commission may require, a statement in duplicate showing the actual legitimate original cost of construction of such project, addition, or betterment, and of the price paid for water rights, rights-of-way, lands, or interest in lands. The licensee shall grant to the Commission or to its duly authorized agent or agents, at all reasonable times, free access to such project, addition, or betterment, and to all maps, profiles, contracts, reports of engineers, accounts, books, records, and all other papers and documents relating thereto. The statement of actual legitimate original cost of said project, and revisions thereof as determined by the Commission, shall be filed with the Secretary of the Treasury.

This subsection covers subject matter of the former second paragraph of subsection (a).

*Cooperation with executive departments; information and aid furnished commission.* (c) \* \* \*.

This subsection was formerly subsection (b) and was relettered (c) by Act Aug 26, 1935, c. 687, § 202.

*Publication of information, and so forth; reports to Congress.* (d) \* \* \*. The Commission, on or before the 3d day of January of each year, shall submit to Congress for the fiscal year preceding a classified report showing the permits and licenses issued under this Part, and in each case the parties thereto, the terms prescribed, and the moneys received if any, or

account thereof. Such report shall contain the names and show the compensation of the persons employed by the Commission.

Act Aug 26, 1935, c 687, relettered former subsection (c) to be (d), amended the second sentence to read as above.

*Issue of licenses for construction, and so forth, of dams, conduits, reservoirs, and so forth.* (e) To issue licenses to citizens of the United States, or to any association of such citizens, or to any corporation organized under the laws of the United States or any State thereof, or to any State or municipality for the purpose of constructing, operating, and maintaining dams, water conduits, reservoirs, power houses, transmission lines, or other project works necessary or convenient for the development and improvement of navigation and for the development, transmission, and utilization of power across, along, from, or in any of the streams or other bodies of water over which Congress has jurisdiction under its authority to regulate commerce with foreign nations and among the several States, or upon any part of the public lands and reservations of the United States (including the Territories), or for the purpose of utilizing the surplus water or water power from any Government dam, except as herein provided: \* \* \* *And provided further,* That upon the filing of any application for a license which has not been preceded by a preliminary permit under subsection (f) of this section, notice shall be given and published as required by the proviso of said subsection.

Act Aug. 26, 1935, c. 687, relettered former subsection (d) to be (e).

*Preliminary permits; notice of application.* (f) \* \* \* and shall also publish notice of such application once each week for four weeks in a daily or weekly newspaper published in the county or counties in which the project or any part thereof or the lands affected thereby are situated.

Act Aug 26, 1935, c. 687, relettered former subsection (e) to be (f) and amended it to read as above.

*Investigation of occupancy for developing power; orders.* (g) Upon its own motion to order an investigation of any occupancy of, or evidenced intention to occupy, for the purpose of developing electric power, public lands, reservations, or streams or other bodies of water over which Congress has jurisdiction under its authority to regulate commerce with foreign nations and among the several States by any person, corporation, State, or municipality and to issue such order as it may find appropriate, expedient, and in the public interest to conserve and utilize the navigation and water-power resources of the region. (As amended Aug. 23, 1935, Aug. 26, 1935, c. 687, Title II, § 202, 49 Stat. 839.)

Section 212 of the Act of Aug 26, 1935, c. 687, 49 Stat 847, provided that nothing in this chapter, as amended, should be construed to repeal or amend the Act of March 3, 1921, c. 129, 41 Stat 1353.

**§ 798. Purpose and scope of preliminary permits; transfer and cancellation.** Each preliminary permit issued under this Part shall be for the sole purpose of maintaining priority of application for a license under the terms of this chapter for such period, or periods, not exceeding a total of three years, as in the discretion of the Commission may be necessary for making examinations and surveys, for preparing maps, plans, specifications, and estimates, and for making financial arrangements. Each such permit shall set forth the conditions under which priority shall be maintained. Such permits shall not be transferable, and may be canceled by order of the Commission upon failure of permittees to comply with the conditions thereof or for other good cause shown after notice and opportunity for hearing. (As amended Aug. 26, 1935, c. 687, Title II, § 203, 49 Stat. 849.)

**§ 799. License; duration, conditions, revocation, alteration or surrender.** \* \* \* and may be altered or surrendered only upon mutual agreement between the licensee and the Commission after thirty days' public notice. Copies of all licenses issued under the

provisions of this Part and calling for the payment of annual charges shall be deposited with the General Accounting Office, in compliance with section 20 of Title 41. (As amended Aug. 26, 1935, c. 687, Title II, § 204, 49 Stat. 841.)

**§ 800. Preferences in issuance of preliminary permits or licenses.** (a) In issuing preliminary permits hereunder or licenses where no preliminary permit has been issued and in issuing licenses to new licensees under section 808 of this chapter the Commission shall give preference to applications therefor by States and municipalities, provided the plans for the same are deemed by the Commission equally well adapted, or shall within a reasonable time to be fixed by the Commission be made equally well adapted, to conserve and utilize in the public interest the water resources of the region; and as between other applicants, the Commission may give preference to the applicant the plans of which it finds and determines are best adapted to develop, conserve, and utilize in the public interest the water resources of the region, if it be satisfied as to the ability of the applicant to carry out such plans.

(b) Whenever, in the judgment of the Commission, the development of any water resources for public purposes should be undertaken by the United States itself, the Commission shall not approve any application for any project affecting such development, but shall cause to be made such examinations, surveys, reports, plans, and estimates of the cost of the proposed development as it may find necessary, and shall submit its findings to Congress with such recommendations as it may find appropriate concerning such development. (As amended Aug. 26, 1935, c. 687, Title II, § 205, 49 Stat. 842.)

**§ 803. Conditions of license generally.** All licenses issued under this Part shall be on the following conditions:

*Modification of plans, etc., to secure adaptability of project.* (a) That the project adopted, including the maps, plans, and specifications, shall be such as in the judgment of the Commission will be best adapted to a comprehensive plan for improving or developing a waterway or waterways for the use or benefit of interstate or foreign commerce, for the improvement and utilization of water-power development, and for other beneficial public uses, including recreational purposes; and if necessary in order to secure such plan the Commission shall have authority to require the modification of any project and of the plans and specifications of the project works before approval.

\* \* \* \* \*

*Amortization reserves.* (d) That after the first twenty years of operation, out of surplus earned thereafter, if any, accumulated in excess of a specified reasonable rate of return upon the net investment of a licensee in any project or projects under license, \* \* \*

*Annual charges payable by licensees.* (e) \* \* \* and any such charges may be adjusted from time to time by the Commission as conditions may require: *Provided,* That when licenses are issued involving the use of Government dams or other structures owned by the United States or tribal lands embraced within Indian reservations the Commission shall, subject to the approval of the Secretary of the Interior in the case of such dams or structures in reclamation projects and, in the case of such tribal lands, subject to the approval of the Indian tribe having jurisdiction of such lands as provided in section 476 of Title 25, fix a reasonable annual charge for the use thereof, and such charges may with like approval be readjusted by the Commission at the end of twenty years after the project is available for service and at periods of not less than ten years thereafter upon notice and opportunity for hearing: *Provided further,* That licenses for the development, transmission, or distribution of power by States or municipalities shall be issued and enjoyed without charge to the extent such power is sold to the public without profit or is used by such

State or municipality for State or municipal purposes, except that as to projects constructed or to be constructed by States or municipalities primarily designed to provide or improve navigation, licenses therefor shall be issued without charge; and that licenses for the development, transmission, or distribution of power for domestic, mining, or other beneficial use in projects of not more than one hundred horsepower installed capacity may be issued without charge, except on tribal lands within Indian reservations; but in no case shall a license be issued free of charge for the development and utilization of power created by any Government dam and that the amount charged therefor in any license shall be such as determined by the Commission. In the event an overpayment of any charge due under this section shall be made by a licensee, the Commission is authorized to allow a credit for such overpayment when charges are due for any subsequent period.

*Reimbursement by licensee of other licensees, and so forth (f) \* \* \** The proportion of such charges to be paid by any licensee shall be determined by the Commission. The licensees or permittees affected shall pay to the United States the cost of making such determination as fixed by the Commission.

Whenever such reservoir or other improvement is constructed by the United States the Commission shall assess similar charges against any licensee directly benefited thereby, and any amount so assessed shall be paid into the Treasury of the United States, to be reserved and appropriated as a part of the special fund for headwater improvements as provided in section 810 of this chapter.

Whenever any power project not under license is benefited by the construction work of a licensee or permittee, the United States or any agency thereof, the Commission, after notice to the owner or owners of such unlicensed project, shall determine and fix a reasonable and equitable annual charge to be paid to the licensee or permittee on account of such benefits, or to the United States if it be the owner of such headwater improvement.

\* \* \* \* \*

*Waiver of conditions.* (i) In issuing licenses for a minor part only of a complete project, or for a complete project of not more than one hundred horsepower installed capacity, the Commission may in its discretion waive such conditions, provisions, and requirements of this chapter, except the license period of fifty years, as it may deem to be to the public interest to waive under the circumstances: *Provided*, That the provisions hereof shall not apply to annual charges for use of lands within Indian reservations. (As amended Aug. 26, 1935, c. 687, Title II, § 206, 49 Stat. 842.)

**§ 807. Right of government to take over project works; compensation; condemnation by Federal or State government.** \* \* \* The net investment of the licensee in the project or projects so taken and the amount of such severance damages, if any, shall be determined by the Commission after notice and opportunity for hearing. Such net investment shall not include or be affected by the value of any lands, rights-of-way, or other property of the United States licensed by the Commission under this chapter, by the license or by good will, going value, or prospective revenues; nor shall the values allowed for water rights, rights-of-way, lands, or interest in lands be in excess of the actual reasonable cost thereof at the time of acquisition by the licensee: *Provided*, That the right of the United States or any State or municipality to take over, maintain, and operate any project licensed under this chapter at any time by condemnation proceedings upon payment of just compensation is hereby expressly reserved. (As amended Aug. 26, 1935, c. 687, Title II, § 207, 49 Stat. 844.)

**§ 810. Disposition of charges arising from licenses.**

(a) All proceeds from any Indian reservation shall be placed to the credit of the Indians of such reservation. All other charges arising from licenses here-

under, except charges fixed by the Commission for the purpose of reimbursing the United States for the costs of administration of this Part, shall be paid into the Treasury of the United States, subject to the following distribution: 12½ per centum thereof is hereby appropriated to be paid into the Treasury of the United States and credited to "Miscellaneous receipts"; 50 per centum of the charges arising from licenses hereunder for the occupancy and use of public lands and national forests shall be paid into, reserved, and appropriated as a part of the reclamation fund created by sections 372, 373, 381, 383, 391, 392, 411, 416, 419, 421, 431, 432, 434, 439, 461, 476, 491 and 498 of Title 43; and 37½ per centum of the charges arising from licenses hereunder for the occupancy and use of national forests and public lands from development within the boundaries of any State shall be paid by the Secretary of the Treasury to such State; and 50 per centum of the charges arising from all other licenses hereunder is hereby reserved and appropriated as a special fund in the Treasury to be expended under the direction of the Secretary of War in the maintenance and operation of dams and other navigation structures owned by the United States or in the construction, maintenance, or operation of headwater or other improvements of navigable waters of the United States. The proceeds of charges made by the Commission for the purpose of reimbursing the United States for the costs of the administration of this Part shall be paid into the Treasury of the United States and credited to miscellaneous receipts.

(b) In case of delinquency on the part of any licensee in the payment of annual charges a penalty of 5 per centum of the total amount so delinquent may be added to the total charges which shall apply for the first month or part of month so delinquent with an additional penalty of 3 per centum for each subsequent month until the total of the charges and penalties are paid or until the license is canceled and the charges and penalties satisfied in accordance with law. (As amended Aug. 26, 1935, c. 687, Title II, § 208, 49 Stat. 845.)

**§ 811. Operation of navigation facilities; rules and regulations; penalties.** The Commission shall require the construction, maintenance, and operation by a licensee at its own expense of such lights and signals as may be directed by the Secretary of War, and such fishways as may be prescribed by the Secretary of Commerce. The operation of any navigation facilities which may be constructed as a part of or in connection with any dam or diversion structure built under the provisions of this chapter, whether at the expense of a licensee hereunder or of the United States, shall at all times be controlled by such reasonable rules and regulations in the interest of navigation, including the control of the level of the pool caused by such dam or diversion structure as may be made from time to time by the Secretary of War; and for willful failure to comply with any such rule or regulation such licensee shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in section 825o of this chapter. (As amended Aug. 26, 1935, c. 687, Title II, § 209, 49 Stat. 845.)

**§ 816. Preservation of rights vested prior to June 10, 1920.** The provisions of this Part shall not be construed as affecting any permit or valid existing right-of-way heretofore granted or as confirming or otherwise affecting any claim, or as affecting any authority heretofore given pursuant to law, but any person, association, corporation, State, or municipality holding or possessing such permit, right-of-way, or authority may apply for a license hereunder, and upon such application the Commission may issue to any such applicant a license in accordance with the provisions of this Part and in such case the provisions of this chapter shall apply to such applicant as a licensee hereunder: *Provided*, That when application is made for a license under this section for a project



or projects already constructed the fair value of said project or projects determined as provided in this section, shall for the purposes of this Part and of said license be deemed to be the amount to be allowed as the net investment of the applicant in such project or projects as of the date of such license, or as of the date of such determination, if license has not been issued. Such fair value shall be determined by the Commission after notice and opportunity for hearing. (As amended Aug. 26, 1935, c. 687, Title II, § 210, 49 Stat. 846.)

**§ 817. Projects not affecting navigable waters; necessity for Federal license.** It shall be unlawful for any person, State, or municipality, for the purpose of developing electric power, to construct, operate, or maintain any dam, water conduit, reservoir, power house, or other works incidental thereto across, along, or in any of the navigable waters of the United States, or upon any part of the public lands or reservations of the United States (including the Territories), or utilize the surplus water or water power from any Government dam, except under and in accordance with the terms of a permit or valid existing right-of-way granted prior to June 10, 1920, or a license granted pursuant to this chapter. Any person, association, corporation, State, or municipality intending to construct a dam or other project works across, along, over, or in any stream or part thereof, other than those defined herein as navigable waters, and over which Congress has jurisdiction under its authority to regulate commerce with foreign nations and among the several States shall before such construction file declaration of such intention with the Commission, whereupon the Commission shall cause immediate investigation of such proposed construction to be made, and if upon investigation it shall find that the interests of interstate or foreign commerce would be affected by such proposed construction, such person, association, corporation, State, or municipality shall not construct, maintain, or operate such dam or other project works until it shall have applied for and shall have received a license under the provisions of this chapter. If the Commission shall not so find, and if no public lands or reservations are affected, permission is hereby granted to construct such dam or other project works in such stream upon compliance with State laws. (As amended Aug. 26, 1935, c. 687, Title II, § 210, 49 Stat. 846.)

**§ 818. Public lands included in project; reservation of lands from entry.** \* \* \* the Secretary of the Interior, upon notice of such determination, shall declare such lands open to location, entry, or selection, for such purpose or purposes and under such restrictions as the Commission may determine, subject to and with a reservation of the right of the United States or its permittees or licensees to enter upon, occupy, and use any part or all of said lands necessary, in the judgment of the Commission, for the purposes of this Part, which right shall be expressly reserved in every patent issued for such lands; and no claim or right to compensation shall accrue from the occupation or use of any of said lands for said purposes. The United States or any licensee for any such lands hereunder may enter thereupon for the purposes of this Part, upon payment of any damages to crops, buildings, or other improvements caused thereby to the owner thereof, or upon giving a good and sufficient bond to the United States for the use and benefit of the owner to secure the payment of such damages as may be determined and fixed in an action brought upon the bond in a court of competent jurisdiction, said bond to be in the form prescribed by the Commission: *Provided*, That locations, entries, selections, or filings made for lands reserved as water-power sites, or in connection with water-power development, or electrical transmission may proceed to approval or patent under and subject to the limitations and conditions in this section contained. (As amended Aug. 26, 1935, c. 687, Title II, § 211, 49 Stat. 847.)

**§ 819. Offenses; punishment.** [Repealed.]

This section was repealed by Act of Aug. 26, 1935, c. 687, Title II, § 212, 49 Stat. 847.)

**PART II—REGULATION OF ELECTRIC UTILITY COMPANIES ENGAGED IN INTERSTATE COMMERCE**

**§ 824. Declaration of policy; application of subchapter; definitions.** (a) It is hereby declared that the business of transmitting and selling electric energy for ultimate distribution to the public is affected with a public interest, and that Federal regulation of matters relating to generation to the extent provided in this Part and the Part III next following and of that part of such business which consists of the transmission of electric energy in interstate commerce and the sale of such energy at wholesale in interstate commerce is necessary in the public interest, such Federal regulation, however, to extend only to those matters which are not subject to regulation by the States.

(b) The provisions of this Part shall apply to the transmission of electric energy in interstate commerce and to the sale of electric energy at wholesale in interstate commerce, but shall not apply to any other sale of electric energy or deprive a State or State commission of its lawful authority now exercised over the exportation of hydroelectric energy which is transmitted across a State line. The Commission shall have jurisdiction over all facilities for such transmission or sale of electric energy, but shall not have jurisdiction, except as specifically provided in this Part and the Part next following, over facilities used for the generation of electric energy or over facilities used in local distribution or only for the transmission of electric energy in intrastate commerce, or over facilities for the transmission of electric energy consumed wholly by the transmitter.

(c) For the purpose of this Part, electric energy shall be held to be transmitted in interstate commerce if transmitted from a State and consumed at any point outside thereof; but only insofar as such transmission takes place within the United States.

(d) The term "sale of electric energy at wholesale" when used in this Part means a sale of electric energy to any person for resale.

(e) The term "public utility" when used in this Part or in the Part III means any person who owns or operates facilities subject to the jurisdiction of the Commission under this Part.

(f) No provision in this Part shall apply to, or be deemed to include, the United States, a State or any political subdivision of a State, or any agency, authority, or instrumentality of any one or more of the foregoing, or any corporation which is wholly owned, directly or indirectly, by any one or more of the foregoing, or any officer, agent, or employee of any of the foregoing acting as such in the course of his official duty, unless such provision makes specific reference thereto. (June 10, 1920, c. 285, § 201, as added Aug. 26, 1935, c. 687, Title II, § 213, 49 Stat. 847.)

**§ 824a. Interconnection and coordination of facilities; emergencies; transmission to foreign countries—(a) Regional districts; establishment; notice to state commissions.** For the purpose of assuring an abundant supply of electric energy throughout the United States with the greatest possible economy and with regard to the proper utilization and conservation of natural resources, the Commission is empowered and directed to divide the country into regional districts for the voluntary interconnection and coordination of facilities for the generation, transmission, and sale of electric energy, and it may at any time thereafter, upon its own motion or upon application, make such modifications thereof as in its judgment will promote the public interest. Each such district shall embrace an area which, in the judgment of the Commission, can economically be served by such interconnected and coordinated electric facilities. It shall be the duty of the Commission to promote and encourage such interconnection and coordination within each such district and be-



tween such districts. Before establishing any such district and fixing or modifying the boundaries thereof the Commission shall give notice to the State commission of each State situated wholly or in part within such district, and shall afford each such State commission reasonable opportunity to present its views and recommendations, and shall receive and consider such views and recommendations.

(b) **Sale or exchange of energy; establishing physical connections.** Whenever the Commission, upon application of any State commission or of any person engaged in the transmission or sale of electric energy, and after notice to each State commission and public utility affected and after opportunity for hearing, finds such action necessary or appropriate in the public interest it may by order direct a public utility (if the Commission finds that no undue burden will be placed upon such public utility thereby) to establish physical connection of its transmission facilities with the facilities of one or more other persons engaged in the transmission or sale of electric energy, to sell energy to or exchange energy with such persons: *Provided*, That the Commission shall have no authority to compel the enlargement of generating facilities for such purposes, nor to compel such public utility to sell or exchange energy when to do so would impair its ability to render adequate service to its customers. The Commission may prescribe the terms and conditions of the arrangement to be made between the persons affected by any such order, including the apportionment of cost between them and the compensation or reimbursement reasonably due to any of them.

(c) **Temporary connection and exchange of facilities during emergency.** During the continuance of any war in which the United States is engaged, or whenever the Commission determines that an emergency exists by reason of a sudden increase in the demand for electric energy, or a shortage of electric energy or of facilities for the generation or transmission of electric energy, or of fuel or water for generating facilities, or other causes, the Commission shall have authority, either upon its own motion or upon complaint, with or without notice, hearing, or report, to require by order such temporary connections of facilities and such generation, delivery, interchange, or transmission of electric energy as in its judgment will best meet the emergency and serve the public interest. If the parties affected by such order fail to agree upon the terms of any arrangement between them in carrying out such order, the Commission, after hearing held either before or after such order takes effect, may prescribe by supplemental order such terms as it finds to be just and reasonable, including the compensation or reimbursement which should be paid to or by any such party.

(d) **Temporary connection during emergency by persons without jurisdiction of Commission.** During the continuance of any emergency requiring immediate action, any person engaged in the transmission or sale of electric energy and not otherwise subject to the jurisdiction of the Commission may make such temporary connections with any public utility subject to the jurisdiction of the Commission or may construct such temporary facilities for the transmission of electric energy in interstate commerce as may be necessary or appropriate to meet such emergency, and shall not become subject to the jurisdiction of the Commission by reason of such temporary connection or temporary construction: *Provided*, That such temporary connection shall be discontinued or such temporary construction removed or otherwise disposed of upon the termination of such emergency: *Provided further*, That upon approval of the Commission permanent connections for emergency use only may be made hereunder.

(e) **Transmission of electric energy to foreign country.** After six months from August 26, 1935, no person shall transmit any electric energy from the United States to a foreign country without first having secured an order of the Commission authorizing

it to do so. The Commission shall issue such order upon application unless, after opportunity for hearing, it finds that the proposed transmission would impair the sufficiency of electric supply within the United States or would impede or tend to impede the coordination in the public interest of facilities subject to the jurisdiction of the Commission. The Commission may by its order grant such application in whole or in part, with such modifications and upon such terms and conditions as the Commission may find necessary or appropriate, and may from time to time, after opportunity for hearing and for good cause shown, make such supplemental orders in the premises as it may find necessary or appropriate. (June 10, 1920, c. 285, § 202, as added Aug. 26, 1935, c. 687, Title II, § 213, 49 Stat. 847.)

§ 824b. **Disposition of property; consolidations; purchase of securities.** (a) No public utility shall sell, lease, or otherwise dispose of the whole of its facilities subject to the jurisdiction of the Commission, or any part thereof of a value in excess of \$50,000, or by any means whatsoever, directly or indirectly, merge or consolidate such facilities or any part thereof with those of any other person, or purchase, acquire, or take any security of any other public utility, without first having secured an order of the Commission authorizing it to do so. Upon application for such approval the Commission shall give reasonable notice in writing to the Governor and State commission of each of the States in which the physical property affected, or any part thereof, is situated, and to such other persons as it may deem advisable. After notice and opportunity for hearing, if the Commission finds that the proposed disposition, consolidation, acquisition, or control will be consistent with the public interest, it shall approve the same.

(b) The Commission may grant any application for an order under this section in whole or in part and upon such terms and conditions as it finds necessary or appropriate to secure the maintenance of adequate service and the coordination in the public interest of facilities subject to the jurisdiction of the Commission. The Commission may from time to time for good cause shown make such orders supplemental to any order made under this section as it may find necessary or appropriate. (June 10, 1920, c. 285, § 203, as added Aug. 26, 1935, c. 687, Title II, § 213, 49 Stat. 849.)

§ 824c. **Issuance of securities; assumption of liabilities; filing duplicate reports with Securities and Exchange Commission.** (a) No public utility shall issue any security, or assume any obligation or liability as guarantor, indorser, surety, or otherwise in respect of any security of another person, unless and until, and then only to the extent that, upon application by the public utility, the Commission by order authorizes such issue or assumption of liability. The Commission shall make such order only if it finds that such issue or assumption (a) is for some lawful object, within the corporate purposes of the applicant and compatible with the public interest, which is necessary or appropriate for or consistent with the proper performance by the applicant of service as a public utility and which will not impair its ability to perform that service, and (b) is reasonably necessary or appropriate for such purposes. The provisions of this section shall be effective six months after Aug. 26, 1935.

(b) The Commission, after opportunity for hearing, may grant any application under this section in whole or in part, and with such modifications and upon such terms and conditions as it may find necessary or appropriate, and may from time to time, after opportunity for hearing and for good cause shown, make such supplemental orders in the premises as it may find necessary or appropriate, and may by any such supplemental order modify the provisions of any previous order as to the particular purposes, uses, and extent to which, or the conditions under which, any

security so theretofore authorized or the proceeds thereof may be applied, subject always to the requirements of subsection (a) of this section.

(c) No public utility shall, without the consent of the Commission, apply any security or any proceeds thereof to any purpose not specified in the Commission's order, or supplemental order, or to any purpose in excess of the amount allowed for such purpose in such order, or otherwise in contravention of such order.

(d) The Commission shall not authorize the capitalization of the right to be a corporation or of any franchise, permit, or contract for consolidation, merger, or lease in excess of the amount (exclusive of any tax or annual charge) actually paid as the consideration for such right, franchise, permit, or contract.

(e) Subsection (a) shall not apply to the issue or renewal of, or assumption of liability on, a note or draft maturing not more than one year after the date of such issue, renewal, or assumption of liability, and aggregating (together with all other then outstanding notes and drafts of a maturity of one year or less on which such public utility is primarily or secondarily liable) not more than 5 per centum of the par value of the other securities of the public utility then outstanding. In the case of securities having no par value, the par value for the purpose of this subsection shall be the fair market value as of the date of issue. Within ten days after any such issue, renewal, or assumption of liability, the public utility shall file with the Commission a certificate of notification, in such form as may be prescribed by the Commission, setting forth such matters as the Commission shall by regulation require.

(f) The provisions of this section shall not extend to a public utility organized and operating in a State under the laws of which its security issues are regulated by a State commission.

(g) Nothing in this section shall be construed to imply any guarantee or obligation on the part of the United States in respect of any securities to which the provisions of this section relate.

(h) Any public utility whose security issues are approved by the Commission under this section may file with the Securities and Exchange Commission duplicate copies of reports filed with the Federal Power Commission in lieu of the reports, information, and documents required under section 77g and sections 77i and 77m of Title 15. (June 10, 1920, c. 235, § 204, as added Aug. 26, 1935, c. 687, Title II, § 213, 49 Stat. 850.)

**§ 824d. Rates and charges; schedules; suspension of new rates.** (a) All rates and charges made, demanded, or received by any public utility for or in connection with the transmission or sale of electric energy subject to the jurisdiction of the Commission, and all rules and regulations affecting or pertaining to such rates or charges shall be just and reasonable, and any such rate or charge that is not just and reasonable is hereby declared to be unlawful.

(b) No public utility shall, with respect to any transmission or sale subject to the jurisdiction of the Commission, (1) make or grant any undue preference or advantage to any person or subject any person to any undue prejudice or disadvantage, or (2) maintain any unreasonable difference in rates, charges, service, facilities, or in any other respect, either as between localities or as between classes of service.

(c) Under such rules and regulations as the Commission may prescribe, every public utility shall file with the Commission, within such time and in such form as the Commission may designate, and shall keep open in convenient form and place for public inspection schedules showing all rates and charges for any transmission or sale subject to the jurisdiction of the Commission, and the classifications, practices, and regulations affecting such rates and charges, together with all contracts which in any manner affect or relate to such rates, charges, classifications, and services.

(d) Unless the Commission otherwise orders, no change shall be made by any public utility in any such rate, charge, classification, or service, or in any rule,

regulation, or contract relating thereto, except after thirty days' notice to the Commission and to the public. Such notice shall be given by filing with the Commission and keeping open for public inspection new schedules stating plainly the change or changes to be made in the schedule or schedules then in force and the time when the change or changes will go into effect. The Commission, for good cause shown, may allow changes to take effect without requiring the thirty days' notice herein provided for by an order specifying the changes so to be made and the time when they shall take effect and the manner in which they shall be filed and published.

(e) Whenever any such new schedule is filed the Commission shall have authority, either upon complaint or upon its own initiative without complaint, at once, and, if it so orders, without answer or formal pleading by the public utility, but upon reasonable notice, to enter upon a hearing concerning the lawfulness of such rate, charge, classification, or service; and, pending such hearing and the decision thereon, the Commission, upon filing with such schedules and delivering to the public utility affected thereby a statement in writing of its reasons for such suspension, may suspend the operation of such schedule and defer the use of such rate, charge, classification, or service, but not for a longer period than five months beyond the time when it would otherwise go into effect; and after full hearings, either completed before or after the rate, charge, classification, or service goes into effect, the Commission may make such orders with reference thereto as would be proper in a proceeding initiated after it had become effective. If the proceeding has not been concluded and an order made at the expiration of such five months, the proposed change of rate, charge, classification, or service shall go into effect at the end of such period, but in case of a proposed increased rate or charge, the Commission may by order require the interested public utility or public utilities to keep accurate account in detail of all amounts received by reason of such increase, specifying by whom and in whose behalf such amounts are paid, and upon completion of the hearing and decision may by further order require such public utility or public utilities to refund, with interest, to the persons in whose behalf such amounts were paid, such portion of such increased rates or charges as by its decision shall be found not justified. At any hearing involving a rate or charge sought to be increased, the burden of proof to show that the increased rate or charge is just and reasonable shall be upon the public utility, and the Commission shall give to the hearing and decision of such questions preference over other questions pending before it and decide the same as speedily as possible. (June 10, 1920, c. 235, § 205, as added Aug. 26, 1935, c. 687, Title II, § 213, 49 Stat. 851.)

**§ 824e. Power of Commission to fix rates and charges; determination of cost of production or transmission.** (a) Whenever the Commission, after a hearing had upon its own motion or upon complaint, shall find that any rate, charge, or classification, demanded, observed, charged, or collected by any public utility for any transmission or sale subject to the jurisdiction of the Commission, or that any rule, regulation, practice, or contract affecting such rate, charge, or classification is unjust, unreasonable, unduly discriminatory or preferential, the Commission shall determine the just and reasonable rate, charge, classification, rule, regulation, practice, or contract to be thereafter observed and in force, and shall fix the same by order.

(b) The Commission upon its own motion, or upon the request of any State commission whenever it can do so without prejudice to the efficient and proper conduct of its affairs, may investigate and determine the cost of the production or transmission of electric energy by means of facilities under the jurisdiction of the Commission in cases where the Commission has no authority to establish a rate governing the sale of such energy. (June 10, 1920, c. 235, § 206, as added Aug. 26, 1935, c. 687, Title II, § 213, 49 Stat. 852.)

**§ 824f. Ordering furnishing of adequate service.**

Whenever the Commission, upon complaint of a State commission, after notice to each State commission and public utility affected and after opportunity for hearing, shall find that any interstate service of any public utility is inadequate or insufficient, the Commission shall determine the proper, adequate, or sufficient service to be furnished, and shall fix the same by its order, rule, or regulation: *Provided*, That the Commission shall have no authority to compel the enlargement of generating facilities for such purposes, nor to compel the public utility to sell or exchange energy when to do so would impair its ability to render adequate service to its customers. (June 10, 1920, c. 285, § 207, as added Aug. 26, 1935, c. 687, Title II, § 213, 49 Stat. 853.)

**§ 824g. Ascertainment of cost of property and depreciation.**

(a) The Commission may investigate and ascertain the actual legitimate cost of the property of every public utility, the depreciation therein, and, when found necessary for rate-making purposes, other facts which bear on the determination of such cost or depreciation, and the fair value of such property.

(b) Every public utility upon request shall file with the Commission an inventory of all or any part of its property and a statement of the original cost thereof, and shall keep the Commission informed regarding the cost of all additions, betterments, extensions, and new construction. (June 10, 1920, c. 285, § 208, as added Aug. 26, 1935, c. 687, Title II, § 213, 49 Stat. 853.)

**§ 824h. Joint boards; composition; references to boards by Commission; cooperation with state commissions.**

(a) The Commission may refer any matter arising in the administration of this Part to a board to be composed of a member or members, as determined by the Commission, from the State or each of the States affected or to be affected by such matter. Any such board shall be vested with the same power and be subject to the same duties and liabilities as in the case of a member of the Commission when designated by the Commission to hold any hearings. The action of such board shall have such force and effect and its proceedings shall be conducted in such manner as the Commission shall by regulations prescribe. The board shall be appointed by the Commission from persons nominated by the State commission of each State affected, or by the Governor of such State if there is no State commission. Each State affected shall be entitled to the same number of representatives on the board unless the nominating power of such State waives such right. The Commission shall have discretion to reject the nominee from any State, but shall thereupon invite a new nomination from that State. The members of a board shall receive such allowances for expenses as the Commission shall provide. The Commission may, when in its discretion sufficient reason exists therefor, revoke any reference to such a board.

(b) The Commission may confer with any State commission regarding the relationship between rate structures, costs, accounts, charges, practices, classifications, and regulations of public utilities subject to the jurisdiction of such State commission and of the Commission; and the Commission is authorized, under such rules and regulations as it shall prescribe, to hold joint hearings with any State commission in connection with any matter with respect to which the Commission is authorized to act. The Commission is authorized in the administration of this Act to avail itself of such cooperation, services, records, and facilities as may be afforded by any State commission.

(c) The Commission shall make available to the several State commissions such information and reports as may be of assistance in State regulation of public utilities. Whenever the Commission can do so without prejudice to the efficient and proper conduct of its affairs, it may upon request from a State make available to such State as witnesses any of its trained rate, valuation, or other experts, subject to reimbursement to the Commission by such State of the

compensation and traveling expenses of such witnesses. All sums collected hereunder shall be credited to the appropriation from which the amounts were expended in carrying out the provisions of this subsection. (June 10, 1920, c. 285, § 209, as added Aug. 26, 1935, c. 687, Title II, § 213, 49 Stat. 853.)

**PART III—LICENSEES AND PUBLIC UTILITIES: PROCEDURAL AND ADMINISTRATIVE PROVISIONS****§ 825. Accounts, records and memoranda; duty to keep; examination by Commission; disclosure of information.**

(a) Every licensee and public utility shall make, keep, and preserve for such periods, such accounts, records of cost-accounting procedures, correspondence, memoranda, papers, books, and other records as the Commission may by rules and regulations prescribe as necessary or appropriate for purposes of the administration of this chapter, including accounts, records, and memoranda of the generation, transmission, distribution, delivery, or sale of electric energy, the furnishing of services or facilities in connection therewith, and receipts and expenditures with respect to any of the foregoing: *Provided, however*, That nothing in this chapter shall relieve any public utility from keeping any accounts, memoranda, or records which such public utility may be required to keep by or under authority of the laws of any State. The Commission may prescribe a system of accounts to be kept by licensees and public utilities and may classify such licensees and public utilities and prescribe a system of accounts for each class. The Commission, after notice and opportunity for hearing, may determine by order the accounts in which particular outlays and receipts shall be entered, charged, or credited. The burden of proof to justify every accounting entry questioned by the Commission shall be on the person making, authorizing, or requiring such entry, and the Commission may suspend a charge or credit pending submission of satisfactory proof in support thereof.

(b) The Commission shall at all times have access to and the right to inspect and examine all accounts, records, and memoranda of licensees and public utilities, and it shall be the duty of such licensees and public utilities to furnish to the Commission, within such reasonable time as the Commission may order, any information with respect thereto which the Commission may by order require, including copies of maps, contracts, reports of engineers, and other data, records, and papers, and to grant to all agents of the Commission free access to its property and its accounts, records, and memoranda when requested so to do. No member, officer, or employee of the Commission shall divulge any fact or information which may come to his knowledge during the course of examination of books or other accounts, as hereinbefore provided, except insofar as he may be directed by the Commission or by a court.

(c) The books, accounts, memoranda, and records of any person who controls, directly or indirectly, a licensee or public utility subject to the jurisdiction of the Commission, and of any other company controlled by such person, insofar as they relate to transactions with or the business of such licensee or public utility, shall be subject to examination on the order of the Commission. (June 10, 1920, c. 285, § 301, as added Aug. 26, 1935, c. 687, Title II, § 213, 49 Stat. 854.)

**§ 825a. Rates of depreciation; notice to state authorities before fixing.**

(a) The Commission may, after hearing, require licensees and public utilities to carry a proper and adequate depreciation account in accordance with such rules, regulations, and forms of account as the Commission may prescribe. The Commission may, from time to time, ascertain and determine, and by order fix, the proper and adequate rates of depreciation of the several classes of property of each licensee and public utility. Each licensee and public utility shall conform its depreciation accounts to the rates so ascertained, determined, and fixed. The licensees and public utilities subject to the juris-

diction of the Commission shall not charge to operating expenses any depreciation charges on classes of property other than those prescribed by the Commission, or charge with respect to any class of property a percentage of depreciation other than that prescribed therefor by the Commission. No such licensee or public utility shall in any case include in any form under its operating or other expenses any depreciation or other charge or expenditure included elsewhere as a depreciation charge or otherwise under its operating or other expenses. Nothing in this section shall limit the power of a State commission to determine in the exercise of its jurisdiction, with respect to any public utility, the percentage rate of depreciation to be allowed, as to any class of property of such public utility, or the composite depreciation rate, for the purpose of determining rates or charges.

(b) The Commission, before prescribing any rules or requirements as to accounts, records, or memoranda, or as to depreciation rates, shall notify each State commission having jurisdiction with respect to any public utility involved, and shall give reasonable opportunity to each such commission to present its views, and shall receive and consider such views and recommendations. (June 10, 1920, c. 285, § 302, as added Aug. 26, 1935, c. 687, Title II, § 213, 49 Stat. 855.)

**§ 825b. Requirements applicable to agencies of United States.** All agencies of the United States engaged in the generation and sale of electric energy for ultimate distribution to the public shall be subject, as to all facilities used for such generation and sale, and as to the electric energy sold by such agency, to the provisions of sections 825 and 825a of this chapter, so far as may be practicable, and shall comply with the provisions of such sections and with the rules and regulations of the Commission thereunder to the same extent as may be required in the case of a public utility. (June 10, 1920, c. 285, § 303, as added Aug. 26, 1935, c. 687, § 213, Title II, 49 Stat. 855.)

**§ 825c. Periodic and special reports; obstructing filing reports or keeping accounts, etc.** (a) Every licensee and every public utility shall file with the Commission such annual and other periodic or special reports as the Commission may by rules and regulations or order prescribe as necessary or appropriate to assist the Commission in the proper administration of this chapter. The Commission may prescribe the manner and form in which such reports shall be made, and require from such persons specific answers to all questions upon which the Commission may need information. The Commission may require that such reports shall include, among other things, full information as to assets and liabilities, capitalization, net investment, and reduction thereof, gross receipts, interest due and paid, depreciation, and other reserves, cost of project and other facilities, cost of maintenance and operation of the project and other facilities, cost of renewals and replacement of the project works and other facilities, depreciation, generation, transmission, distribution, delivery, use, and sale of electric energy. The Commission may require any such person to make adequate provision for currently determining such costs and other facts. Such reports shall be made under oath unless the Commission otherwise specifies.

(b) It shall be unlawful for any person willfully to hinder, delay, or obstruct the making, filing, or keeping of any information, document, report, memorandum, record, or account required to be made, filed, or kept under this chapter or any rule, regulation, or order thereunder. (June 10, 1920, c. 285, § 304, as added Aug. 26, 1935, c. 687, Title II, § 213, 49 Stat. 855.)

**§ 825d. Officials dealing in securities; declaring dividends out of capital account; interlocking directors.** (a) It shall be unlawful for any officer or director of any public utility to receive for his own benefit, directly or indirectly, any money or thing of value in respect of the negotiation, hypothecation, or sale by such public utility of any security issued or

to be issued by such public utility, or to share in any of the proceeds thereof, or to participate in the making or paying of any dividends of such public utility from any funds properly included in capital account.

(b) After six months from August 26, 1935, it shall be unlawful for any person to hold the position of officer or director of more than one public utility or to hold the position of officer or director of a public utility and the position of officer or director of any bank, trust company, banking association, or firm that is authorized by law to underwrite or participate in the marketing of securities of a public utility, or officer or director of any company supplying electrical equipment to such public utility, unless the holding of such positions shall have been authorized by order of the Commission, upon due showing in form and manner prescribed by the Commission, that neither public nor private interests will be adversely affected thereby. The Commission shall not grant any such authorization in respect of such positions held on August 26, 1935, unless application for such authorization is filed with the Commission within sixty days after that date. (June 10, 1920, c. 285, § 305, as added Aug. 26, 1935, c. 687, Title II, § 213, 49 Stat. 856.)

**§ 825e. Complaints.** Any person, State, municipality, or State commission complaining of anything done or omitted to be done by any licensee or public utility in contravention of the provisions of this chapter may apply to the Commission by petition which shall briefly state the facts, whereupon a statement of the complaint thus made shall be forwarded by the Commission to such licensee or public utility, who shall be called upon to satisfy the complaint or to answer the same in writing within a reasonable time to be specified by the Commission. If such licensee or public utility shall not satisfy the complaint within the time specified or there shall appear to be any reasonable ground for investigating such complaint, it shall be the duty of the Commission to investigate the matters complained of in such manner and by such means as it shall find proper. (June 10, 1920, c. 285, § 306, as added Aug. 26, 1935, c. 687, Title II, § 213, 49 Stat. 856.)

**§ 825f. Investigations by Commission; attendance of witnesses; depositions; immunity of witnesses.** (a) The Commission may investigate any facts, conditions, practices, or matters which it may find necessary or proper in order to determine whether any person has violated or is about to violate any provision of this chapter or any rule, regulation, or order thereunder, or to aid in the enforcement of the provisions of this chapter or in prescribing rules or regulations thereunder, or in obtaining information to serve as a basis for recommending further legislation concerning the matters to which this chapter relates. The Commission may permit any person to file with it a statement in writing under oath or otherwise, as it shall determine, as to any or all facts and circumstances concerning a matter which may be the subject of investigation. The Commission, in its discretion, may publish or make available to State commissions information concerning any such subject.

(b) For the purpose of any investigation or any other proceeding under this chapter, any member of the Commission, or any officer designated by it, is empowered to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, contracts, agreements, or other records which the Commission finds relevant or material to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States at any designated place of hearing. Witnesses summoned by the Commission to appear before it shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

(c) In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Commission may invoke the aid of any court of the United States

within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, correspondence, memoranda, contracts, agreements, and other records. Such court may issue an order requiring such person to appear before the Commission or member or officer designated by the Commission, there to produce records, if so ordered, or to give testimony touching the matter under investigation or in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever he may be found or may be doing business. Any person who willfully shall fail or refuse to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda, contracts, agreements, or other records, if in his or its power so to do, in obedience to the subpoena of the Commission, shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine of not more than \$1,000 or to imprisonment for a term of not more than one year, or both.

(d) The testimony of any witness may be taken, at the instance of a party, in any proceeding or investigation pending before the Commission, by deposition, at any time after the proceeding is at issue. The Commission may also order testimony to be taken by deposition in any proceeding or investigation pending before it, at any stage of such proceeding or investigation. Such depositions may be taken before any person authorized to administer oaths not being of counsel or attorney to either of the parties, nor interested in the proceeding or investigation. Reasonable notice must first be given in writing by the party or his attorney proposing to take such deposition to the opposite party or his attorney of record, as either may be nearest, which notice shall state the name of the witness and the time and place of the taking of his deposition. Any person may be compelled to appear and depose, and to produce documentary evidence, in the same manner as witnesses may be compelled to appear and testify and produce documentary evidence before the Commission, as hereinbefore provided. Such testimony shall be reduced to writing by the person taking the deposition, or under his direction, and shall, after it has been reduced to writing, be subscribed by the deponent.

(e) If a witness whose testimony may be desired to be taken by deposition be in a foreign country, the deposition may be taken before an officer or person designated by the Commission, or agreed upon by the parties by stipulation in writing to be filed with the Commission. All depositions must be promptly filed with the Commission.

(f) Witnesses whose depositions are taken as authorized in this chapter, and the person or officer taking the same, shall be entitled to the same fees as are paid for like services in the courts of the United States.

(g) No person shall be excused from attending and testifying or from producing books, papers, correspondence, memoranda, contracts, agreements, or other records and documents before the Commission, or in obedience to the subpoena of the Commission or any member thereof or any officer designated by it, or in any cause or proceeding instituted by the Commission, on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled to testify or produce evidence, documentary or otherwise, after having claimed his privilege against self-incrimination, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying. (June 10, 1920, c. 285, § 307, as added Aug. 26, 1935, c. 687, Title II, § 213, 49 Stat. 858.)

**§ 825g. Hearings; rules of procedure.** (a) Hearings under this chapter may be held before the Commission, any member or members thereof or any representative of the Commission designated by it, and appropriate records thereof shall be kept. In any proceeding before it, the Commission, in accordance with such rules and regulations as it may prescribe, may admit as a party any interested State, State commission, municipality, or any representative of interested consumers or security holders, or any competitor of a party to such proceeding, or any other person whose participation in the proceeding may be in the public interest.

(b) All hearings, investigations, and proceedings under this chapter shall be governed by rules of practice and procedure to be adopted by the Commission, and in the conduct thereof the technical rules of evidence need not be applied. No informality in any hearing, investigation, or proceeding or in the manner of taking testimony shall invalidate any order, decision, rule, or regulation issued under the authority of this chapter. (June 10, 1920, c. 285, § 308, as added Aug. 26, 1935, c. 687, Title II, § 213, 49 Stat. 858.)

**§ 825h. Administrative powers of Commission; rules, regulations, and orders.** The Commission shall have power to perform any and all acts, and to prescribe, issue, make, amend, and rescind such orders, rules, and regulations as it may find necessary or appropriate to carry out the provisions of this chapter. Among other things, such rules and regulations may define accounting, technical, and trade terms used in this chapter; and may prescribe the form or forms of all statements, declarations, applications, and reports to be filed with the Commission, the information which they shall contain, and the time within which they shall be filed. Unless a different date is specified therein, rules and regulations of the Commission shall be effective thirty days after publication in the manner which the Commission shall prescribe. Orders of the Commission shall be effective on the date and in the manner which the Commission shall prescribe. For the purposes of its rules and regulations, the Commission may classify persons and matters within its jurisdiction and prescribe different requirements for different classes of persons or matters. All rules and regulations of the Commission shall be filed with its secretary and shall be kept open in convenient form for public inspection and examination during reasonable business hours. (June 10, 1920, c. 285, § 309, as added Aug. 26, 1935, c. 685, Title II, § 213, 49 Stat. 858.)

**§ 825i. Appointment of officers and employees; compensation.** The Commission is authorized to appoint and fix the compensation of such officers, attorneys, examiners, and experts as may be necessary for carrying out its functions under this chapter, without regard to the provisions of other laws applicable to the employment and compensation of officers and employees of the United States; and the Commission may, subject to civil-service laws, appoint such other officers and employees as are necessary for carrying out such functions and fix their salaries in accordance with sections 661 to 674 of Title 5. (June 10, 1920, c. 285, § 310, as added Aug. 26, 1935, c. 687, Title II, § 213, 49 Stat. 859.)

**§ 825j. Investigations relating to electric energy; reports to Congress.** In order to secure information necessary or appropriate as a basis for recommending legislation, the Commission is authorized and directed to conduct investigations regarding the generation, transmission, distribution, and sale of electric energy, however produced, throughout the United States and its possessions, whether or not otherwise subject to the jurisdiction of the Commission, including the generation, transmission, distribution, and sale of electric energy by any agency, authority, or instrumentality of the United States, or of any State or municipality or other political subdivision of a State. It shall, so far as practicable, secure and keep cur-



rent information regarding the ownership, operation, management, and control of all facilities for such generation, transmission, distribution, and sale; the capacity and output thereof and the relationship between the two; the cost of generation, transmission, and distribution; the rates, charges, and contracts in respect of the sale of electric energy and its service to residential, rural, commercial, and industrial consumers and other purchasers by private and public agencies; and the relation of any or all such facts to the development of navigation, industry, commerce, and the national defense. The Commission shall report to Congress the results of investigations made under authority of this section. (June 10, 1920, c. 285, § 311, as added Aug. 26, 1935, c. 687, Title II, § 213, 49 Stat. 859.)

**§ 825k. Publication and sale of reports.** The Commission may provide for the publication of its reports and decisions in such form and manner as may be best adapted for public information and use, and is authorized to sell at reasonable prices copies of all maps, atlases, and reports as it may from time to time publish. Such reasonable prices may include the cost of compilation, composition, and reproduction. The Commission is also authorized to make such charges as it deems reasonable for special statistical services and other special or periodic services. The amounts collected under this section shall be deposited in the Treasury to the credit of miscellaneous receipts. All printing for the Federal Power Commission making use of engraving, lithography, and photolithography, together with the plates for the same, shall be contracted for and performed under the direction of the Commission, under such limitations and conditions as the Joint Committee on Printing may from time to time prescribe, and all other printing for the Commission shall be done by the Public Printer under such limitations and conditions as the Joint Committee on Printing may from time to time prescribe. The entire work may be done at, or ordered through, the Government Printing Office whenever, in the judgment of the Joint Committee on Printing, the same would be to the interest of the Government: *Provided*, That when the exigencies of the public service so require, the Joint Committee on Printing may authorize the Commission to make immediate contracts for engraving, lithographing, and photolithographing, without advertisement for proposals: *Provided further*, That nothing contained in this chapter or any other Act shall prevent the Federal Power Commission from placing orders with other departments or establishments for engraving, lithographing, and photolithographing, in accordance with the provisions of sections 686 and 686b of Title 5, providing for interdepartmental work. (June 10, 1920, c. 285, § 312, as added Aug. 26, 1935, c. 687, Title II, § 213, 49 Stat. 859.)

**§ 825l. Rehearings; court review of orders.** (a) Any person, State, municipality, or State commission aggrieved by an order issued by the Commission in a proceeding under this chapter to which such person, State, municipality, or State commission is a party may apply for a rehearing within thirty days after the issuance of such order. The application for rehearing shall set forth specifically the ground or grounds upon which such application is based. Upon such application the Commission shall have power to grant or deny rehearing or to abrogate or modify its order without further hearing. Unless the Commission acts upon the application for rehearing within thirty days after it is filed, such application may be deemed to have been denied. No proceeding to review any order of the Commission shall be brought by any person unless such person shall have made application to the Commission for a rehearing thereon.

(b) Any party to a proceeding under this chapter aggrieved by an order issued by the Commission in such proceeding may obtain a review of such order in the Circuit Court of Appeals of the United States for any circuit wherein the licensee or public utility to which the order relates is located or has its principal

place of business, or in the United States Court of Appeals for the District of Columbia, by filing in such court, within sixty days after the order of the Commission upon the application for rehearing, a written petition praying that the order of the Commission be modified or set aside in whole or in part. A copy of such petition shall forthwith be served upon any member of the Commission and thereupon the Commission shall certify and file with the court a transcript of the record upon which the order complained of was entered. Upon the filing of such transcript such court shall have exclusive jurisdiction to affirm, modify, or set aside such order in whole or in part. No objection to the order of the Commission shall be considered by the court unless such objection shall have been urged before the Commission in the application for rehearing unless there is reasonable ground for failure so to do. The finding of the Commission as to the facts, if supported by substantial evidence, shall be conclusive. If any party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for failure to adduce such evidence in the proceedings before the Commission, the court may order such additional evidence to be taken before the Commission and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The Commission may modify its findings as to the facts by reason of the additional evidence so taken, and it shall file with the court such modified or new findings which, if supported by substantial evidence, shall be conclusive, and its recommendation, if any, for the modification or setting aside of the original order. The judgment and decree of the court, affirming, modifying, or setting aside, in whole or in part, any such order of the Commission, shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in sections 346 and 347 of Title 28.

(c) The filing of an application for rehearing under subsection (a) shall not, unless specifically ordered by the Commission, operate as a stay of the Commission's order. The commencement of proceedings under subsection (b) of this section shall not, unless specifically ordered by the court, operate as a stay of the Commission's order. (June 10, 1935, c. 285, § 313, as added Aug. 26, 1935, c. 687, Title II, § 213, 49 Stat. 860.)

**§ 825m. Restraining violations; mandamus to compel compliance with law; employment of attorneys.**

(a) Whenever it shall appear to the Commission that any person is engaged or about to engage in any acts or practices which constitute or will constitute a violation of the provisions of this chapter, or of any rule, regulation, or order thereunder, it may in its discretion bring an action in the proper District Court of the United States, the Supreme Court of the District of Columbia, or the United States courts of any Territory or other place subject to the jurisdiction of the United States, to enjoin such acts or practices and to enforce compliance with this chapter or any rule, regulation, or order thereunder, and upon a proper showing a permanent or temporary injunction or decree or restraining order shall be granted without bond. The Commission may transmit such evidence as may be available concerning such acts or practices to the Attorney General, who, in his discretion, may institute the necessary criminal proceedings under this chapter.

(b) Upon application of the Commission the district courts of the United States, the Supreme Court of the District of Columbia, and the United States courts of any Territory or other place subject to the jurisdiction of the United States shall have jurisdiction to issue writs of mandamus commanding any person to comply with the provisions of this chapter or any rule, regulation, or order of the Commission thereunder.

(c) The Commission may employ such attorneys as it finds necessary for proper legal aid and service of

the Commission or its members in the conduct of their work, or for proper representation of the public interests in investigations made by it or cases or proceedings pending before it, whether at the Commission's own instance or upon complaint, or to appear for or represent the Commission in any case in court; and the expenses of such employment shall be paid out of the appropriation for the Commission. (June 10, 1920, c. 285, § 314, as added Aug. 26, 1935, c. 687, Title II, § 213, 49 Stat. 861.)

§ 825n. **Forfeiture for violations; recovery.** (a) Any licensee or public utility which willfully fails, within the time prescribed by the Commission, to comply with any order of the Commission, to file any report required under this chapter or any rule or regulation of the Commission thereunder, to submit any information or document required by the Commission in the course of an investigation conducted under this chapter, or to appear by an officer or agent at any hearing or investigation in response to a subpoena issued under this chapter, shall forfeit to the United States an amount not exceeding \$1,000 to be fixed by the Commission after notice and opportunity for hearing. The imposition or payment of any such forfeiture shall not bar or affect any penalty prescribed in this chapter but such forfeiture shall be in addition to any such penalty.

(b) The forfeitures provided for in this chapter shall be payable into the Treasury of the United States and shall be recoverable in a civil suit in the name of the United States, brought in the district where the person is an inhabitant or has his principal place of business, or if a licensee or public utility, in any district in which such licensee or public utility transacts business. It shall be the duty of the various district attorneys, under the direction of the Attorney General of the United States, to prosecute for the recovery of forfeitures under this chapter. The costs and expenses of such prosecution shall be paid from the appropriations for the expenses of the courts of the United States. (June 10, 1920, c. 285, § 315, as added Aug. 26, 1935, c. 687, Title II, § 213, 49 Stat. 861.)

§ 825o. **Penalties.** (a) Any person who willfully and knowingly does or causes or suffers to be done any act, matter, or thing in this chapter prohibited or declared to be unlawful, or who willfully and knowingly omits or fails to do any act, matter, or thing in this Act required to be done, or willfully and knowingly causes or suffers such omission or failure, shall, upon conviction thereof, be punished by a fine of not more than \$5,000 or by imprisonment for not more than two years, or both.

(b) Any person who willfully and knowingly violates any rule, regulation, restriction, condition, or order made or imposed by the Commission under authority of this chapter, or any rule or regulation imposed by the Secretary of War under authority of Part I of this chapter shall, in addition to any other penalties provided by law, be punished upon conviction thereof by a fine of not exceeding \$500 for each and every day during which such offense occurs. (June 10, 1920, c. 285, § 316, as added Aug. 26, 1935, c. 687, Title II, § 213, 49 Stat. 862.)

§ 825p. **Jurisdiction of offenses; enforcement of liabilities and duties.** The District Courts of the United States, the Supreme Court of the District of Columbia, and the United States courts of any Territory or other place subject to the jurisdiction of the United States shall have exclusive jurisdiction of violations of this chapter or the rules, regulations, and orders thereunder, and of all suits in equity and actions at law brought to enforce any liability or duty created by, or to enjoin any violation of, this chapter or any rule, regulation, or order

thereunder may be brought in any such district or in the district wherein the defendant is an inhabitant, and process in such cases may be served wherever the defendant may be found. Judgments and decrees so rendered shall be subject to review as provided in sections 225 and 347 of Title 28. No costs shall be assessed against the Commission in any judicial proceeding by or against the Commission under this chapter. (June 10, 1920, c. 285, § 317, as added Aug. 26, 1935, c. 687, Title II, § 213, 49 Stat. 862.)

§ 825q. **Conflict of jurisdiction.** If, with respect to the issue, sale, or guaranty of a security, or assumption of obligation or liability in respect of a security, the method of keeping accounts, the filing of reports, or the acquisition or disposition of any security, capital assets, facilities, or any other subject matter, any person is subject both to a requirement of sections 79 to 79z—6 of Title 15 or of a rule, regulation, or order thereunder and to a requirement of this chapter or of a rule, regulation, or order thereunder, the requirement of sections 79 to 79z—6 of Title 15 shall apply to such person, and such person shall not be subject to the requirement of this chapter, or of any rule, regulation, or order thereunder, with respect to the same subject matter, unless the Securities and Exchange Commission has exempted such person from such requirement of sections 79 to 79z—6 of Title 15, in which case the requirements of this chapter shall apply to such person. (June 10, 1920, c. 285, § 318, as added Aug. 26, 1935, c. 687, Title II, § 213, 49 Stat. 863.)

§ 825r. **Separability clause.** If any provision of this chapter, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of the chapter, and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby. (June 10, 1920, c. 285, § 319, as added Aug. 26, 1935, c. 687, Title II, § 213, 49 Stat. 863.)

## Chapter 12A.—TENNESSEE VALLEY AUTHORITY ACT

§ 831c. **Corporate powers generally; eminent domain; construction of dams, transmission lines, etc.**

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(1) Shall have power to acquire real estate for the construction of dams, reservoirs, transmission lines, power houses, and other structures, and navigation projects at any point along the Tennessee River, or any of its tributaries, and in the event that the owner or owners of such property shall fail and refuse to sell to the Corporation at a price deemed fair and reasonable by the board, then the Corporation may proceed to exercise the right of eminent domain, and to condemn all property that it deems necessary for carrying out the purposes of this chapter, and all such condemnation proceedings shall be had pursuant to the provisions and requirements hereinafter specified, with reference to any and all condemnation proceedings: *Provided*, That nothing contained herein or elsewhere in this chapter shall be construed to deprive the Corporation of the rights conferred by sections 258a to 258e, inclusive, of Title 40.

(j) Shall have power to construct such dams, and reservoirs, in the Tennessee River and its tributaries, as in conjunction with Wilson Dam, and Norris, Wheeler, and Pickwick Landing Dams, now under construction, will provide a nine-foot channel in the said river and maintain a water supply for the same, from Knoxville to its mouth, and will best serve to promote navigation on the Tennessee River and its tributaries and control destructive flood waters in the Tennessee and Mississippi River drainage basins; and shall have power to acquire or construct power houses, power structures, transmission lines, navigation projects, and incidental works in the Tennessee River and its tributaries, and to unite the various power installations into one or more systems by



transmission lines. The directors of the Authority are hereby directed to report to Congress their recommendations not later than April 1, 1936, for the unified development of the Tennessee River system.

(k) At any time before the expiration of five years from August 31, 1935 may in the name of and as agent for the United States and subject to approval of the President, dispose of any of such real property as in the judgment of the Board may be no longer necessary in carrying out the purposes of this chapter, but no land shall be conveyed on which there is a permanent dam, hydraulic power plant, fertilizer plant or munitions plant, heretofore or hereafter built by or for the United States or for the Authority.

(l) Shall have power to advise and cooperate in the readjustment of the population displaced by the construction of dams, the acquisition of reservoir areas, the protection of watersheds, the acquisition of rights-of-way, and other necessary acquisitions of land, in order to effectuate the purposes of the chapter; and may cooperate with Federal, State, and local agencies to that end. (As amended Aug. 31, 1935, c. 836, §§ 1-3, 13, 49 Stat. 1075, 1080.)

**§ 831d. Directors; maintenance and operation of plant for production, sale and distribution of fertilizer and power; lease of nitrate plant and quarry.**

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(c) To cooperate with National, State, district, or county experimental stations or demonstration farms, with farmers, landowners, and associations of farmers or landowners, for the use of new forms of fertilizer or fertilizer practices during the initial or experimental period of their introduction, and for promoting the prevention of soil erosion by the use of fertilizers and otherwise. (As amended Aug. 31, 1935, c. 836, § 4, 49 Stat. 1076.)

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**§ 831h. Purchases; advertising for bids; factors in making awards; annual financial statement; audit by Comptroller General.**

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(b) All purchases and contracts for supplies or services, except for personal services, made by the Corporation, shall be made after advertising, in such manner and at such times sufficiently in advance of opening bids, as the Board shall determine to be adequate to insure notice and opportunity for competition: *Provided*, That advertisement shall not be required when, (1) an emergency requires immediate delivery of the supplies or performance of the services; or (2) repair parts, accessories, supplemental equipment, or services are required for supplies or services previously furnished or contracted for; or (3) the aggregate amount involved in any purchase of supplies or procurement of services does not exceed \$500; in which cases such purchases of supplies or procurement of services may be made in the open market in the manner common among businessmen: *Provided further*, That in comparing bids and in making awards the Board may consider such factors as relative quality and adaptability of supplies or services, the bidder's financial responsibility, skill, experience, record of integrity in dealing, ability to furnish repairs and maintenance services, the time of delivery or performance offered, and whether the bidder has complied with the specifications.

The Comptroller General of the United States shall audit the transactions of the Corporation at such times as he shall determine, but not less frequently than once each governmental fiscal year, with personnel of his selection. In such connection he and his representatives shall have free and open access to all papers, books, records, files, accounts, plants, warehouses, offices, and all other things, property, and places belonging to or under the control of or used or employed by the Corporation, and shall be afforded full facilities for counting all cash and verifying transactions with and balances in depositories. He shall make report of each such audit in quadruplicate, one copy for the President of the United

States, one for the chairman of the Board, one for public inspection at the principal office of the Corporation, and the other to be retained by him for the uses of the Congress: *Provided*, That such report shall not be made until the Corporation shall have had reasonable opportunity to examine the exceptions and criticisms of the Comptroller General or the General Accounting Office, to point out errors therein, explain or answer the same, and to file a statement which shall be submitted by the Comptroller General with his report. The expenses for each such audit shall be paid from any appropriation or appropriations for the General Accounting Office, and such part of such expenses as may be allocated to the cost of generating, transmitting, and distributing electric energy shall be reimbursed promptly by the Corporation as billed by the Comptroller General. The Comptroller General shall make special report to the President of the United States and to the Congress of any transaction or condition found by him to be in conflict with the powers or duties entrusted to the Corporation by law. (As amended Aug. 31, 1935, c. 836, § 14, 49 Stat. 1080.)

**§ 831h-1. Operation of dams primarily for promotion of navigation and controlling floods; generation and sale of electricity.** The Board is hereby directed in the operation of any dam or reservoir in its possession and control to regulate the stream flow primarily for the purposes of promoting navigation and controlling floods. So far as may be consistent with such purposes, the Board is authorized to provide and operate facilities for the generation of electric energy at any such dam for the use of the Corporation and for the use of the United States or any agency thereof, and the Board is further authorized, whenever an opportunity is afforded, to provide and operate facilities for the generation of electric energy in order to avoid the waste of water power, to transmit and market such power as in this chapter provided, and thereby, so far as may be practicable, to assist in liquidating the cost or aid in the maintenance of the projects of the Authority. (May 18, 1933, c. 32, § 9a, as added Aug. 31, 1935, c. 836, § 5, 49 Stat. 1076.)

**§ 831i. Sale of surplus power; preferences; experimental work; acquisition of existing electric facilities.** The board is hereby empowered and authorized to sell the surplus power not used in its operations, and for operation of locks and other works generated by it, to States, counties, municipalities, corporations, partnerships, or individuals, according to the policies hereinafter set forth; and to carry out said authority, the board is authorized to enter into contracts for such sale for a term not exceeding twenty years, and in the sale of such current by the board it shall give preference to States, counties, municipalities, and cooperative organizations of citizens or farmers, not organized or doing business for profit, but primarily for the purpose of supplying electricity to its own citizens or members: *Provided*, That all contracts made with private companies or individuals for the sale of power, which power is to be resold for a profit, shall contain a provision authorizing the board to cancel said contract upon five years' notice in writing, if the board needs said power to supply the demands of States, counties, or municipalities. In order to promote and encourage the fullest possible use of electric light and power on farms within reasonable distance of any of its transmission lines the board in its discretion shall have power to construct transmission lines to farms and small villages that are not otherwise supplied with electricity at reasonable rates, and to make such rules and regulations governing such sale and distribution of such electric power as in its judgment may be just and equitable: *Provided further*, That the board is hereby authorized and directed to make studies, experiments, and determinations to promote the wider and better use of electric power for agricultural and domestic use, or for small or local industries, and it may cooperate with State governments, or their subdivisions or agencies, with educational or research institutions,

and with cooperatives or other organizations, in the application of electric power to the fuller and better balanced development of the resources of the region: *Provided further*, That the Board is authorized to include in any contract for the sale of power such terms and conditions, including resale rate schedules, and to provide for such rules and regulations as in its judgment may be necessary or desirable for carrying out the purposes of this chapter, and in case the purchaser shall fail to comply with any such terms and conditions, or violate any such rules and regulations, said contract may provide that it shall be voidable at the election of the Board: *Provided further*, That in order to supply farms and small villages with electric power directly as contemplated by this section, the Board in its discretion shall have power to acquire existing electric facilities used in serving such farms and small villages: *And provided further*, That the terms "States", "counties", and "municipalities" as used in this chapter shall be construed to include the public agencies of any of them unless the context requires a different construction. (As amended Aug. 31, 1935, c. 836, § 6, 49 Stat. 1076.)

§ 831k-1. Extension of credit to states, municipalities and nonprofit organizations to assist in operation of existing facilities. In order (1) to facilitate the disposition of the surplus power of the Corporation according to the policies set forth in this chapter; (2) to give effect to the priority herein accorded to States, counties, municipalities, and nonprofit organizations in the purchase of such power by enabling them to acquire facilities for the distribution of such power; and (3) at the same time to preserve existing distribution facilities as going concerns and avoid duplication of such facilities, the Board is authorized to advise and cooperate with and assist, by extending credit for a period of not exceeding five years to, States, Counties, municipalities and nonprofit organizations situated within transmission distance from any dam where such power is generated by the Corporation in acquiring, improving, and operating (a) existing distribution facilities and incidental works, including generating plants; and (b) interconnecting transmission lines; or in acquiring any interest in such facilities, incidental works, and lines. (May 18, 1933, c. 32, § 12a, as added Aug. 31, 1931, c. 836, § 7, 49 Stat. 1076.)

§ 831m. Allocation and charge of value and cost of plants to particular objects; cost accounting; reports of costs of operation; sale of surplus power at profit. The board shall make a thorough investigation as to the present value of Dam Numbered 2, and the steam plants at nitrate plant numbered 1, and nitrate plant numbered 2, and as to the cost of Cove Creek Dam, for the purpose of ascertaining how much of the value or the cost of said properties shall be allocated and charged up to (1) flood control, (2) navigation, (3) fertilizer, (4) national defense, and (5) the development of power. The findings thus made by the board, when approved by the President of the United States, shall be final, and such findings shall thereafter be used in all allocation of value for the purpose of keeping the book value of said properties. In like manner, the cost and book value of any dams, steam plants, or other similar improvements hereafter constructed and turned over to said board for the purpose of control and management shall be ascertained and allocated. The Board shall, on or before January 1, 1937, file with Congress a statement of its allocation of the value of all such properties turned over to said Board, and which have been completed prior to the end of the preceding fiscal year, and shall thereafter in its annual report to Congress file a statement of its allocation of the value of such properties as have been completed during the preceding fiscal year.

For the purpose of accumulating data useful to the Congress in the formulation of legislative policy in matters relating to the generation, transmission, and distribution of electric energy and the production of chemicals necessary to national defense and useful in agriculture, and to the Federal Power Commission

and other Federal and State agencies, and to the public, the Board shall keep complete accounts of its costs of generation, transmission, and distribution of electric energy and shall keep a complete account of the total cost of generating and transmission facilities constructed or otherwise acquired by the Corporation, and of producing such chemicals, and a description of the major components of such costs according to such uniform system of accounting for public utilities as the Federal Power Commission has, and if it have none, then it is hereby empowered and directed to prescribe such uniform system of accounting, together with records of such other physical data and operating statistics of the Authority as may be helpful in determining the actual cost and value of services, and the practices, methods, facilities, equipment, appliances, and standards and sizes, types, location, and geographical and economic integration of plants and systems best suited to promote the public interest, efficiency, and the wider and more economical use of electric energy. Such data shall be reported to the Congress by the Board from time to time, with appropriate analyses and recommendations, and, so far as practicable, shall be made available to the Federal Power Commission and other Federal and State agencies which may be concerned with the administration of legislation relating to the generation, transmission, or distribution of electric energy and chemicals useful to agriculture. It is hereby declared to be the policy of this chapter that, in order, as soon as practicable, to make the power projects self-supporting and self-liquidating, the surplus power shall be sold at rates which, in the opinion of the Board, when applied to the normal capacity of the Authority's power facilities, will produce gross revenues in excess of the cost of production of said power and in addition to the statement of the cost of power at each power station as required by section 831h of this chapter, the Board shall file with each annual report, a statement of the total cost of all power generated by it at all power stations during each year, the average cost of such power per kilowatt hour, the rates at which sold, and to whom sold, and copies of all contracts for the sale of power. (As amended Aug. 31, 1935, c. 836, § 8, 49 Stat. 1077.)

§ 831n-1. Bonds to carry out provisions of § 831k-1; amount, terms and conditions. With the approval of the Secretary of the Treasury, the Corporation is authorized to issue bonds not to exceed in the aggregate \$50,000,000 outstanding at any one time, which bonds may be sold by the Corporation to obtain funds to carry out the provisions of section 831k-1 of this chapter. Such bonds shall be in such forms and denominations, shall mature within such periods not more than fifty years from the date of their issue, may be redeemable at the option of the Corporation before maturity in such manner as may be stipulated therein, shall bear such rates of interest not exceeding 3½ per centum per annum, shall be subject to such terms and conditions, shall be issued in such manner and amount, and sold at such prices, as may be prescribed by the Corporation, with the approval of the Secretary of the Treasury: *Provided*, That such bonds shall not be sold at such prices or on such terms as to afford an investment yield to the holders in excess of 3½ per centum per annum. Such bonds shall be fully and unconditionally guaranteed both as to interest and principal by the United States, and such guaranty shall be expressed on the face thereof, and such bonds shall be lawful investments, and may be accepted as security, for all fiduciary, trust, and public funds, the investment or deposit of which shall be under the authority or control of the United States or any officer or officers thereof. In the event that the Corporation should not pay upon demand, when due, the principal of, or interest on, such bonds, the Secretary of the Treasury shall pay to the holder the amount thereof, which is hereby authorized to be appropriated out of any moneys in the Treasury not otherwise appropriated, and thereupon to the extent of the amount so paid the Secretary of the Treasury

shall succeed to all the rights of the holders of such bonds. The Secretary of the Treasury, in his discretion, is authorized to purchase any bonds issued hereunder, and for such purpose the Secretary of the Treasury is authorized to use as a public-debt transaction the proceeds from the sale of any securities hereafter issued under sections 752, 754 and 757 of Title 31, as amended, and the purposes for which securities may be issued under such sections, are extended to include any purchases of the Corporation's bonds hereunder. The Secretary of the Treasury may, at any time, sell any of the bonds of the Corporation acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of the bonds of the Corporation shall be treated as public-debt transactions of the United States. With the approval of the Secretary of the Treasury, the Corporation shall have power to purchase such bonds in the open market at any time and at any price. No bonds shall be issued hereunder to provide funds or bonds necessary for the performance of any proposed contract negotiated by the Corporation under the authority of section 831k-1 of this chapter until the proposed contract shall have been submitted to and approved by the Federal Power Commission. When any such proposed contract shall have been submitted to the said Commission, the matter shall be given precedence and shall be in every way expedited and the Commission's determination of the matter shall be final. The authority of the Corporation to issue bonds hereunder shall expire at the end of five years from August 31, 1935, except that such bonds may be issued at any time after the expiration of said period to provide bonds or funds necessary for the performance of any contract entered into by the Corporation, prior to the expiration of said period, under the authority of section 831k-1 of this chapter. (May 18, 1933, c. 32, § 15a, as added Aug. 31, 1935, c. 836, § 9, 49 Stat. 1078.)

**§ 831y. Net proceeds over expense payable into Treasury.** Commencing July 1, 1936, the proceeds for each fiscal year derived by the Board from the sale of power or any other products manufactured by the Corporation, and from any other activities of the Corporation including the disposition of any real or personal property, shall be paid into the Treasury of the United States at the end of each calendar year, save and except such part of such proceeds as in the opinion of the Board shall be necessary for the Corporation in the operation of dams and reservoirs, in conducting its business in generating, transmitting, and distributing electric energy and in manufacturing, selling, and distributing fertilizer and fertilizer ingredients. A continuing fund of \$1,000,000 is also excepted from the requirements of this section and may be withheld by the Board to defray emergency expenses and to insure continuous operation: *Provided*, That nothing in this section shall be construed to prevent the use by the Board, after June 30, 1936, of proceeds accruing prior to July 1, 1936, for the payment of obligations lawfully incurred prior to such latter date. (As amended Aug. 31, 1935, c. 836, § 10, 49 Stat. 1079.)

**§ 831y-1. Approval of plans by Board as condition precedent to construction and operation; restraining action without approval; other law unaffected.** The unified development and regulation of the Tennessee River system requires that no dam, appurtenant works, or other obstruction, affecting navigation, flood control, or public lands or reservations shall be constructed, and thereafter operated or maintained across,

along, or in the said river or any of its tributaries until plans for such construction, operation, and maintenance shall have been submitted to and approved by the Board; and the construction, commencement of construction, operation, or maintenance of such structures without such approval is hereby prohibited. When such plans shall have been approved, deviation therefrom either before or after completion of such structures is prohibited unless the modification of such plans has previously been submitted to and approved by the Board.

In the event the Board shall, within sixty days after their formal submission to the Board, fail to approve any plans or modifications, as the case may be, for construction, operation, or maintenance of any such structures on the Little Tennessee River, the above requirements shall be deemed satisfied, if upon application to the Secretary of War, with due notice to the Corporation, and hearing thereon, such plans or modifications are approved by the said Secretary of War as reasonably adequate and effective for the unified development and regulation of the Tennessee River system.

Such construction, commencement of construction, operation, or maintenance of any structures or parts thereof in violation of the provisions of this section may be prevented, and the removal or discontinuation thereof required by the injunction or order of any district court exercising jurisdiction in any district in which such structures or parts thereof may be situated, and the Corporation is hereby authorized to bring appropriate proceedings to this end.

The requirements of this section shall not be construed to be a substitute for the requirements of any other law of the United States or of any State, now in effect or hereafter enacted, but shall be in addition thereto, so that any approval, license, permit, or other sanction now or hereafter required by the provisions of any such law for the construction, operation, or maintenance of any structures whatever, except such as may be constructed, operated, or maintained by the Corporation, shall be required, notwithstanding the provisions of this section. (May 18, 1933, c. 32, § 26a, as added Aug. 31, 1935, c. 836, § 11, 49 Stat. 1079.)

**§ 831cc. Separability clause.** The sections of this chapter are hereby declared to be separable, and in the event any one or more sections of this chapter be held to be unconstitutional, the same shall not affect the validity of other sections of this chapter. (As amended Aug. 31, 1935, c. 836, § 15, 49 Stat. 1081.)

**§ 831dd. Liberal construction of chapter; sale of surplus lands.** This chapter shall be liberally construed to carry out the purposes of Congress to provide for the disposition of and make needful rules and regulations respecting Government properties entrusted to the Authority, provide for the national defense, improve navigation, control destructive floods, and promote interstate commerce and the general welfare, but no real estate shall be held except what is necessary in the opinion of the Board to carry out plans and projects actually decided upon requiring the use of such land: *Provided*, That any land purchased by the Authority and not necessary to carry out plans and projects actually decided upon shall be sold by the Authority as agent of the United States, after due advertisement, at public auction to the highest bidder, or at private sale as provided in section 831c of this chapter. (May 18, 1935, c. 32, § 31, as added Aug. 31, 1935, c. 836, § 12, 49 Stat. 1080.)



## TITLE 18.—CRIMINAL CODE AND CRIMINAL PROCEDURE

### Chapter 3.—OFFENSES AGAINST ELECTIVE FRANCHISE AND CIVIL RIGHTS OF CITIZENS

§ 53. Searches without warrant; punishment. [Repealed.]

This section was repealed by Act Aug. 27, 1935, c. 740, § 1, 49 Stat. 872. See section 53a of this title

§ 53a. Unlawful searches by officer, agent or employee of United States. Any officer, agent, or employee of the United States engaged in the enforcement of any law of the United States who shall search any private dwelling used and occupied as such dwelling without a warrant directing such search, or who, while engaged in such enforcement, shall without a search warrant maliciously and without reasonable cause search any other building or property, shall be guilty of a misdemeanor and upon conviction thereof shall be fined for a first offense not more than \$1,000, and for a subsequent offense not more than \$1,000, or imprisoned not more than one year, or both such fine and imprisonment: *Provided*, That nothing herein contained shall apply to any officer, agent, or employee of the United States serving a warrant of arrest, or arresting or attempting to arrest any person committing or attempting to commit an offense in the presence of such officer, agent, or employee, or who has committed, or who is suspected on reasonable grounds of having committed, a felony. (Aug. 27, 1935, c. 740, § 201, 49 Stat. 877.)

### Chapter 4.—OFFENSES AGAINST OPERATIONS OF GOVERNMENT

§ 53. Searches without warrant; punishment. [Repealed.]

This section was repealed by Act Aug. 27, 1935, c. 740, § 1, 49 Stat. 872. See section 53a of this title

§ 53a. Unlawful searches by officer, agent or employee of United States. Any officer, agent, or employee of the United States engaged in the enforcement of any law of the United States who shall search any private dwelling used and occupied as such dwelling without a warrant directing such search, or who, while engaged in such enforcement, shall without a search warrant maliciously and without reasonable cause search any other building or property, shall be guilty of a misdemeanor and upon conviction thereof shall be fined for a first offense not more than \$1,000, and for a subsequent offense not more than \$1,000, or imprisoned not more than one year, or both such fine and imprisonment: *Provided*, That nothing herein contained shall apply to any officer, agent, or employee of the United States serving a warrant of arrest, or arresting or attempting to arrest any person committing or attempting to commit an offense in the presence of such officer, agent, or employee, or who has committed, or who is suspected on reasonable grounds of having committed, a felony. (Aug. 27, 1935, c. 740, § 201, 49 Stat. 877.)

§ 77. Falsely representing to be officer, agent, or employee of United States and making arrest or search. [Repealed.]

This section was repealed by Act Aug. 27, 1935, c. 740, § 1, 49 Stat. 872. See section 77a of this title.

§ 77a. Impersonating officer, agent or employee of United States and making arrest or search. Whoever not being an officer, agent, or employee of the United States shall falsely represent himself to be such officer, agent, or employee, and in such assumed character shall arrest or detain any person or shall in any

manner search the person, buildings, or other property of any person, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than \$1,000 or imprisoned for not more than one year, or by both such fine and imprisonment. (Aug. 27, 1935, c. 740, § 201, 49 Stat. 877.)

§ 122. Obstructing revenue officers by masters of vessels. If the master of any vessel shall obstruct or hinder, or shall intentionally cause any obstruction or hindrance to any officer in lawfully going on board such vessel, for the purpose of carrying into effect any of the revenue or navigation laws of the United States, he shall for every such offense be liable to a penalty of not more than \$2,000 nor less than \$500. (As amended Aug. 5, 1935, c. 438, Title III, § 307, 49 Stat. 880.)

### Chapter 6.—OFFENSES AGAINST PUBLIC JUSTICE

§ 254. Resisting, interfering with, or assaulting federal officer; penalty.

"454" in line 4 should be "253"

### Chapter 8.—OFFENSES AGAINST POSTAL SERVICE

§ 317. (Criminal Code, section 194, amended.) Stealing, secreting, or embezzling mail matter. Whoever shall steal, take, or abstract, or by fraud or deception obtain or attempt so to obtain from or out of any mail, post office or station thereof, or other authorized depository for mail matter, or from a letter or mail carrier, any letter, postal card, package, bag, or mail, or shall abstract or remove from any such letter, package, bag, or mail, any article or thing contained therein, or shall secrete, embezzle, or destroy any such letter, postal card, package, bag, or mail, or any article or thing contained therein: \* \* \* (As amended Aug. 26, 1935, c. 693, 49 Stat. 867.)

§ 320. (Criminal Code, section 197.) Assaulting mail or money custodian; robbery; wounding custodian. Whoever shall assault any person having lawful charge, control, or custody of any mail matter or of any money or other property of the United States, with intent to rob, steal, or purloin such mail matter, money, or other property of the United States, or any part thereof, or shall rob any such person of such mail matter, or of any money, or other property of the United States, or any part thereof, shall, for the first offense, be imprisoned not more than ten years; and if in effecting or attempting to effect such robbery he shall wound the person having custody of such mail, money, or other property of the United States, or put his life in jeopardy by the use of a dangerous weapon, or for a subsequent offense, shall be imprisoned twenty-five years. (As amended Aug. 26, 1935, c. 694, 49 Stat. 867.)

§ 338a. Mailing threatening communications; venue or district of trial. Whoever, with intent to extort from any person any money or other thing of value, shall knowingly deposit or cause to be deposited in any post office or station thereof, or in any authorized depository for mail matter, to be sent or delivered by the post-office establishment of the United States, or shall knowingly cause to be delivered by the post-office establishment of the United States according to the direction thereon, any written or printed letter or other communication with or without a name or designating mark subscribed thereto, addressed to any other person, and containing any threat (1) to injure the person, property, or reputation of the addressee or of another or the reputation of a deceased person, or (2)

to kidnap any person, or (3) to accuse the addressee or any other person of a crime, or containing any demand or request for ransom or reward for the release of any kidnapped person, shall be fined not more than \$5,000 or imprisoned not more than twenty years, or both: *Provided*, That any person violating this section may be prosecuted in the judicial district in which such letter or other communication is deposited in such post office, station, or authorized depository for mail matter, or in the judicial district into which such letter or other communication was carried by the United States mail for delivery according to the direction thereon. (As amended June 28, 1935, c. 326, 49 Stat. 427.)

§ 349a. **Forging or counterfeit postmarking stamp.** Whoever shall forge or counterfeit any postmarking stamp, or impression thereof with intent to make it appear that such impression is a genuine postmark, or shall make or knowingly use or sell, or have in possession with intent to use or sell, any forged or counterfeited postmarking stamp, die, plate, or engraving, or such impression thereof, shall be fined not more than \$1,000 or imprisoned not more than five years, or both. (Aug. 26, 1935, c. 692, 49 Stat. 866.)

### Chapter 9.—OFFENSES AGAINST FOREIGN AND INTERSTATE COMMERCE

§ 392. (Criminal Code, section 242.) **Transportation of illegally killed game; shipments in game season; feathers of barnyard fowls.** It shall be unlawful for any person, firm, corporation, or association to deliver or knowingly receive for shipment, transportation, or carriage, or to ship, transport, or carry, by any means whatever, from any State, Territory, or the District of Columbia to, into, or through any other State, Territory, or the District of Columbia, or to a foreign country any wild animal or bird, or the dead body or part thereof, or the egg of any such bird imported from any foreign country contrary to any law of the United States, or captured, killed, taken, purchased, sold, or possessed contrary to any such law, or captured, killed, taken, shipped, transported, carried, purchased, sold, or possessed contrary to the law of any State, Territory, or the District of Columbia, or foreign country or State, Province, or other subdivision thereof in which it was captured, killed, taken, purchased, sold, or possessed or in which it was delivered or knowingly received for shipment, transportation, or carriage, or from which it was shipped, transported, or carried; and it shall be unlawful for any person, firm, corporation, or association to transport, bring, or convey, by any means whatever, from any foreign country into the United States any wild animal or bird, or the dead body or part thereof, or the egg of any such bird captured, killed, taken, shipped, transported, or carried contrary to the law of the foreign country or State, Province, or other subdivision thereof in which it was captured, killed, taken, delivered, or knowingly received for shipment, transportation, or carriage, or from which it was shipped, transported, or carried; and no person, firm, corporation, or association shall knowingly purchase or receive any wild animal or bird, or the dead body or part thereof, or the egg of any such bird imported from any foreign country or shipped, transported, carried, brought, or conveyed, in violation of this section; nor shall any person, firm, corporation, or association purchasing or receiving any wild animal or bird; or the dead body or part thereof, or the egg of any such bird, imported from any foreign country, or shipped, transported, or carried in interstate commerce make any false record or render any account that is false in any respect in reference thereto. (As amended June 15, 1935, c. 261, Title II, § 201, 49 Stat. 380.)

§ 393. (Criminal Code, section 243.) **Marking of packages.** All packages or containers in which wild animals or birds, or the dead bodies or parts thereof, or the eggs of any such birds are shipped, transported,

carried, brought, or conveyed, by any means whatever, from one State, Territory, or the District of Columbia to, into, or through another State, Territory, or the District of Columbia, or to or from a foreign country shall be plainly and clearly marked or labeled on the outside thereof with the names and addresses of the shipper and consignee and with an accurate statement showing by number and kind the contents thereof. (As amended June 15, 1935, c. 261, Title II, § 201, 49 Stat. 381.)

§ 393a. **Arrests and execution of search warrants; forfeiture of animals or birds unlawfully possessed.** That any employee of the Department of Agriculture authorized by the Secretary of Agriculture to enforce the provisions of said sections 392 and 393, and any officer of the customs, shall have power to arrest any person committing a violation of any provision of said sections in his presence or view and to take such person immediately for examination or trial before an officer or court of competent jurisdiction; shall have power to execute any warrant or other process issued by an officer or court of competent jurisdiction to enforce the provisions of said sections; and shall have authority to execute any warrant to search for and seize wild animals or birds, or the dead bodies or parts thereof, or the eggs of such birds, delivered or received for shipment, transportation, or carriage, or shipped, transported, carried, brought, conveyed, purchased, or received in violation of said sections 392 and 393. Any judge of a court established under the laws of the United States or any United States commissioner may, within his jurisdiction, upon proper oath or affirmation showing probable cause, issue warrants in all such cases. Wild animals or birds, or the dead bodies or parts thereof, or the eggs of such birds, delivered or received for shipment, transportation, or carriage, or shipped, transported, carried, brought, conveyed, purchased, or received contrary to the provisions of said sections 392 and 393 shall, when found, be taken into possession and custody by any such employee or by the United States marshal or his deputy, or by any officer of the customs, and held pending disposition thereof by the court; and when so taken into possession or custody, upon conviction of the offender or upon judgment of a court of the United States that the same were delivered or received for shipment, transportation, or carriage, or were shipped, transported, carried, brought, conveyed, purchased, or received contrary to any provision of said sections 392 and 393, or were imported in violation of any law of the United States, as a part of the penalty and in addition to any fine or imprisonment imposed under aforesaid section 394, or otherwise, shall be forfeited and disposed of as directed by the court. (June 15, 1935, c. 261, Title II, § 202, 49 Stat. 381.)

§ 394. (Criminal Code, section 244.) **Same; penalty.** For each evasion or violation of, or failure to comply with, any provision of sections 391 to 393 of this title, any person, firm, corporation, or association, upon conviction thereof, shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than six months, or both. (As amended June 15, 1935, c. 261, Title II, § 201, 49 Stat. 381.)

### Chapter 11.—OFFENSES WITHIN ADMIRALTY, MARITIME, AND TERRITORIAL JURISDICTION OF UNITED STATES

§ 468. (Criminal Code, section 289.) **Laws of States adopted for punishing wrongful acts; effect of repeal.** Whoever, within the territorial limits of any State, organized Territory, or District, but within or upon any of the places now existing or hereafter reserved or acquired, described in section 451 of this title, shall do or omit the doing of any act or thing which is not made penal by any laws of Congress, but which if committed or omitted within the jurisdiction of the State, Territory, or District in which such place is situated, by the laws thereof in force on April 1,

1935, and remaining in force at the time of the doing or omitting the doing of such act or thing, would be penal, shall be deemed guilty of a like offense and be subject to a like punishment. (As amended June 20, 1935, c. 284, 49 Stat. 394)

#### Chapter 15.—LIMITATIONS

##### § 585. Crimes under internal revenue laws.

"§§ 1110 (a), 1200" in next to last line should read  
"§§ 1110 (a), 1200 (a)"

##### § 586. Same; prosecutions instituted prior to amendment of preceding section. [Repealed]

In note to this section "Act Feb. 26, 1926, c. 27, § 1101 (b)" should be "Act Feb. 26, 1926, c. 27, § 1110 (b)"

#### Chapter 22.—GENERAL PROVISIONS

##### § 706. Juvenile Offenders; confinement.

"Mar. 3, 1911" in citation should be "Mar. 2, 1911"

#### Chapter 23.—UNITED STATES PRISONS IN GENERAL

§ 753h. Prisoners escaping or attempting to escape; punishment. Any person committed to the custody of the Attorney General or his authorized representative, or who is confined in any penal or correctional institution pursuant to the direction of the Attorney General, or who is in custody by virtue of any proc-

ess issued under the laws of the United States by any court, judge, or commissioner, or who is in custody of an officer of the United States pursuant to lawful arrest, who escapes or attempts to escape from such custody or institution, shall be guilty of an offense. If the custody or confinement is by virtue of an arrest on a charge of felony, or conviction of any offense whatever, the offense of escaping or attempting to escape therefrom shall constitute a felony and any person convicted thereof shall be punished by imprisonment for not more than five years or by a fine of not more than \$5,000, or both; and if the custody or confinement is by virtue of an arrest or charge of or for a misdemeanor, and prior to conviction, the offense of escaping or attempting to escape therefrom shall constitute a misdemeanor and any person convicted thereof shall be punished by imprisonment for not more than one year or by a fine of not more than \$1,000, or both. The sentence imposed hereunder shall be in addition to and independent of any sentence imposed in the case in connection with which such person is held in custody at the time of such escape or attempt to escape. If such person be under sentence at the time of such offense, the sentence imposed hereunder shall begin upon the expiration of, or upon legal release from, any sentence under which such person is held at the time of such escape or attempt to escape. (As amended Aug. 3, 1935, c. 432, 49 Stat. 513.)





## TITLE 19.—CUSTOMS DUTIES

### Chapter 1.—COLLECTION DISTRICTS, PORTS, AND OFFICERS

#### § 29. Administration of oaths by collectors and assistants.

The portion of Act Mar 15, 1898, c. 68 § 1, 30 Stat 286, constituting this section was withdrawn by amendment by Act Aug 26 1935, c. 689, § 2, 49 Stat 864, thus in effect repealing the section.

#### § 49. Restriction on payment for services. [Repealed.]

This section was repealed by Act Aug 26, 1935, c. 689, § 1, 49 Stat. 864.

### Chapter 2.—THE TARIFF COMMISSION

#### § 107. Procuring supplies and services; application of section 5 of Title 41.

Repeated, Act Feb. 2, 1935, c. 3, § 1, 49 Stat. 7.

### Chapter 3.—THE TARIFF AND RELATED PROVISIONS

#### SUBTITLE III—SPECIAL PROVISIONS

#### § 126. Imports from Canal Zone.

"and entry of persons into the United States" should be inserted in line 3 before "from."

#### SUBTITLE IV—CUSTOMS ADMINISTRATION

§ 483. Forfeitures; penalty for aiding unlawful importation. (a) All vessels, with the tackle, apparel, and furniture thereof, and all vehicles, animals, aircraft, and things with the tackle, harness, and equipment thereof, used in, or employed to aid in, or to facilitate by obtaining information or otherwise, the unlading, bringing in, importation, landing, removal, concealment, harboring, or subsequent transportation of any merchandise upon the same or otherwise unlawfully introduced, or attempted to be introduced into the United States, shall be seized and forfeited.

(b) Any member of the crew of any such vessel and any person who assists, finances, directs, or is otherwise concerned in the unlading, bringing in, importation, landing, removal, concealment, harboring, or subsequent transportation of any such merchandise exceeding \$100 in value, or into whose control or possession the same shall come without lawful excuse, shall, in addition to any other penalty, be liable to a penalty equal to the value of such goods, to be recovered in any court of competent jurisdiction, or to imprisonment for not more than five years, or both. (As amended Aug. 5, 1935, c. 438, Title II, § 208, 49 Stat. 526.)

#### § 522. Vessels or vehicles summarily forfeited; use for enforcement of customs laws or National Prohibition Act. [Repealed.]

This section was repealed by section 308 of Act Aug 27, 1935, c. 740, 49 Stat 880.

See sections 304f-304m of Title 40.

#### § 523. Forfeited vessels and vehicles; use by Treasury Department; order of court. [Repealed.]

This section, as amended by Act May 27, 1930, c. 342, § 9, 46 Stat 430, was repealed by section 308 of Act Aug. 27, 1935, c. 740, 49 Stat 880.

See sections 304f-304m of Title 40.

#### § 524. Limitation on use; expense of maintenance, etc.; report in Budget; disposition when not needed. [Repealed.]

This section was repealed by section 308 of Act Aug. 27, 1935, c. 740, 49 Stat 880.

See sections 304f to 304m of Title 40.

### Chapter 4.—TARIFF ACT OF 1930

#### SUBTITLE II—FREE LIST

#### § 1201. Free list.

Par 1606 Temporary extension of time animals may be returned free of duty.

The Act of May 27, 1935, c. 149, 49 Stat. 293, provided as follows: "notwithstanding the provisions of subparagraph (c) of paragraph 1606 of title II of the Tariff Act of 1930, horses, mules, asses, cattle, sheep, and other domestic animals, straying across the boundary line into any foreign country, or which have been driven across such boundary line by the owner for temporary pasturage purposes only, or which may so stray or be driven before November 1, 1935, and the offspring and increase of any such animals, whether or not accompanying the parent animals, shall be admitted free of duty under regulations to be prescribed by the Secretary of the Treasury, it brought into the United States at any time before June 30, 1936."

#### SUBTITLE III—SPECIAL PROVISIONS

§ 1319a. Duty on coffee; ratification of duties imposed by Legislature of Puerto Rico. The taxes and duties imposed by the Legislature of Puerto Rico by Joint Resolution Numbered 59 approved by the Governor of Puerto Rico May 5, 1930, and by Act Numbered 77 approved by the Governor of Puerto Rico May 5, 1931, as amended by Act Numbered 7 approved by the Governor April 9, 1934, including therein such taxes and duties on coffee heretofore or hereafter brought into Puerto Rico from any State or Territory or district or possession of the United States, or other place subject to the jurisdiction of the United States, are legalized and ratified, and the collection of all such taxes and duties made under or by authority of either of said acts of the Puerto Rican Legislature, including such taxes and duties on coffee heretofore or hereafter brought into Puerto Rico from any State, Territory, district, or possession of the United States, or other place subject to the jurisdiction of the United States, is legalized, ratified, and confirmed as fully to all intents and purposes as if the same had, by prior Act of Congress, been specifically authorized and directed (As amended Aug. 20, 1935, c. 578, 49 Stat. 665.)

#### § 1330. Organization of the commission.

For the fiscal year ending June 30, 1936, the salaries of the commissioners were reduced to \$10,000 each per annum by Act Feb 2, 1935, c. 3, § 3, 49 Stat. 19.

#### SUBTITLE IV—ADMINISTRATIVE PROVISIONS

#### § 1401. Miscellaneous.

(l) Officer of the Customs. The term "officer of the customs" means any officer of the Customs Service or any commissioned, warrant, or petty officer of the Coast Guard, or agent or other person authorized by law or by the Secretary of the Treasury, or appointed in writing by a collector, to perform the duties of an officer of the Customs Service.

(m) Customs Waters. The term "customs waters" means, in the case of a foreign vessel subject to a treaty or other arrangement between a foreign government and the United States enabling or permitting the authorities of the United States to board, examine, search, seize, or otherwise to enforce upon such vessel upon the high seas the laws of the United States, the waters within such distance of the coast of the United States as the said authorities are or may be so enabled or permitted by such treaty or arrangement and, in the case of every other vessel, the waters within four leagues of the coast of the United States.

(n) **Hovering Vessel.** The term "hovering vessel" means any vessel which is round or kept on the coast of the United States within or without the customs waters, i., from the history, conduct, character, or location of the vessel, it is reasonable to believe that such vessel is being used or may be used to introduce or promote or facilitate the introduction or attempted introduction of merchandise into the United States in violation of the laws respecting the revenue. (As amended Aug. 5, 1935, c. 438, Title II, § 201, 49 Stat. 521.)

Act Aug. 5, 1935, amended section by adding at the end thereof above new paragraphs (l), (m), and (n).

§ 1432a. **Entry after visiting hovering vessel as arrival.** For the purposes of this section and sections 433, 434, 448, 585, and 586 of this chapter, any vessel which has visited any hovering vessel shall be deemed to arrive or have arrived, as the case may be, from a foreign port or place. (Aug. 5, 1935, c. 438, Title II, § 201, 49 Stat. 521.)

#### § 1433. Report of arrival.

Entry after visiting hovering vessel as arrival, see section 1432a of this title.

§ 1434. **Entry of American vessels.** Except as otherwise provided by law, and under such regulations as the Secretary of Commerce may prescribe, the master of a vessel of the United States arriving in the United States from a foreign port or place shall, within forty-eight hours after its arrival within the limits of any customs collection district, make formal entry of the vessel at the customhouse by producing and depositing with the collector the vessel's crew list, its register, or document in lieu thereof, the clearance and bills of health issued to the vessel at the foreign port or ports from which it arrived, together with the original and one copy of the manifest, and shall make oath that the ownership of the vessel is as indicated in the register, or document in lieu thereof, and that the manifest was made out in accordance with section 1431 of this chapter. (As amended Aug. 5, 1935, c. 438, Title III, § 301, 49 Stat. 527.)

Entry after visiting hovering vessel as arrival, see section 1432a of this title.

§ 1436. **Failure to report or enter vessel; additional penalty where vessel carrying nonimportable goods or liquor.** Every master who fails to make the report or entry provided for in sections 1433, 1434, or 1435 of this chapter shall, for each offense, be liable to a fine of not more than \$1,000 and, if the vessel have, or be discovered to have had, on board any merchandise (sea stores excepted), the importation of which into the United States is prohibited, or any spirits, wines, or other alcoholic liquors, such master shall be subject to an additional fine of not more than \$2,000 or to imprisonment for not more than one year, or to both such fine and imprisonment.

Every master who presents a forged, altered, or false document or paper on making entry of a vessel as required by section 1434 or 1435 of this chapter, knowing the same to be forged, altered, or false and without revealing the fact, shall, in addition to any forfeiture to which in consequence the vessel may be subject, be liable to a fine of not more than \$5,000 nor less than \$50 or to imprisonment for not more than two years, or to both such fine and imprisonment. (As amended Aug. 5, 1935, c. 438, Title II, § 202, 49 Stat. 521.)

Act Aug. 5, 1935, amended section by striking out period after "\$1,000" in fourth line and adding "and, if the vessels have" to end of section.

§ 1441. **Vessels not required to enter.** The following vessels shall not be required to make entry at the customhouse:

(1) Vessels of war and public vessels employed for the conveyance of letters and dispatches and not permitted by the laws of the nations to which they belong to be employed in the transportation of passengers or merchandise in trade;

(2) Passenger vessels making three trips or oftener a week between a port of the United States and a

foreign port, or vessels used exclusively as ferryboats, carrying passengers, baggage, or merchandise: *Provided*, That the master of any such vessel shall be required to report such baggage and merchandise to the collector within twenty-four hours after arrival:

(3) Yachts of fifteen gross tons or under not permitted by law to carry merchandise or passengers for hire and not visiting any hovering vessel, nor having at any time or, if forfeited to the United States or to a foreign government, at any time after forfeiture, become liable to seizure and forfeiture for any violation of the laws of the United States;

(4) Vessels arriving in distress or for the purpose of taking on bunker coal, bunker oil, or necessary sea stores and which shall depart within twenty-four hours after arrival without having landed or taken on board any passengers, or any merchandise other than bunker coal, bunker oil, or necessary sea stores: *Provided*, That the master, owner, or agent of such vessel shall report under oath to the collector the hour and date of arrival and departure and the quantity of bunker coal, bunker oil, or necessary sea stores taken on board; and

(5) Tugs enrolled and licensed to engage in the foreign and coasting trade in the northern, northeastern, and northwestern frontiers when towing vessels which are required by law to enter and clear. (As amended Aug. 5, 1935, c. 438, Title III, § 302, 49 Stat. 527.)

Act Aug. 5, 1935, affected subsection (3) of this section by adding all after "passengers for hire."

#### § 1448. Unlading.

Entry after visiting hovering vessel as arrival, see section 1432a of this title

§ 1531. **Boarding vessels.** (a) Any officer of the customs may at any time go on board of any vessel or vehicle at any place in the United States or within the customs waters or, as he may be authorized, within a customs-enforcement area established under chapter 5 of this title, or at any other authorized place, without as well as within his district, and examine the manifest and other documents and papers and examine, inspect, and search the vessel or vehicle and every part thereof and any person, trunk, package, or cargo on board, and to this end may hail and stop such vessel or vehicle, and use all necessary force to compel compliance.

(b) Officers of the Department of Commerce and other persons authorized by such department may go on board of any vessel at any place in the United States or within the customs waters and hail, stop, and board such vessel in the enforcement of the navigation laws and arrest or, in case of escape or attempted escape, pursue and arrest any person engaged in the breach or violation of the navigation laws.

(c) Any master of a vessel being examined as herein provided, who presents any forged, altered, or false document or paper to the examining officer, knowing the same to be forged, altered, or false and without revealing the fact shall, in addition to any forfeiture, to which in consequence the vessel may be subject, be liable to a fine of not more than \$5,000 nor less than \$500.

(d) Any vessel or vehicle which, at any authorized place, is required to come to a stop by any officer of the customs, or is required to come to a stop by signal made by any vessel employed in the service of the customs displaying the ensign and pennant prescribed for such vessel by the President, shall come to a stop, and upon failure to comply, a vessel so required to come to a stop shall become subject to pursuit and the master thereof shall be liable to a fine of not more than \$5,000 nor less than \$1,000. It shall be the duty of the several officers of the customs to pursue any vessel which may become subject to pursuit, and to board and examine the same, and to examine any person or merchandise on board, without as well as within their respective districts and at any place upon the high seas or, if permitted by the appropriate foreign authority, elsewhere where the vessel may be pursued as well as at any other authorized place.

(e) If upon the examination of any vessel or vehicle it shall appear that a breach of the laws of the United States is being or has been committed so as to render such vessel or vehicle, or the merchandise, or any part thereof, on board of, or brought into the United States by, such vessel or vehicle, liable to forfeiture or to secure any fine or penalty, the same shall be seized and any person who has engaged in such breach shall be arrested.

(f) It shall be the duty of the several officers of the customs to seize and secure any vessel, vehicle, or merchandise which shall become liable to seizure, and to arrest any person who shall become liable to arrest by virtue of any law respecting the revenue, as well without as within their respective districts and to use all necessary force to seize or arrest the same.

(g) Any vessel, within or without the customs waters, from which any merchandise is being, or has been, unlawfully introduced into the United States by means of any boat belonging to, or owned, controlled, or managed in common with, said vessel, shall be deemed to be employed within the United States and, as such, subject to the provisions of this section.

(h) The provisions of this section shall not be construed to authorize or require any officer of the United States to enforce any law of the United States upon the high seas upon a foreign vessel in contravention of any treaty with a foreign government enabling or permitting the authorities of the United States to board, examine, search, seize, or otherwise to enforce upon said vessel upon the high seas the laws of the United States except as such authorities are or may otherwise be enabled or permitted under special arrangement with such foreign government. (As amended Aug. 5, 1935, c. 438, Title II, § 203, 49 Stat. 521.)

#### § 1584. Falsity or lack of manifest—Penalties.

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If any of such merchandise so found consists of heroin, morphine, or cocaine, the master of such vessel or person in charge of such vehicle or the owner of such vessel or vehicle shall be liable to a penalty of \$50 for each ounce thereof so found. If any of such merchandise so found consists of smoking opium or opium prepared for smoking, the master of such vessel or person in charge of such vehicle or the owner of such vessel or vehicle shall be liable to a penalty of \$25 for each ounce thereof so found. If any of such merchandise so found consists of crude opium, the master of such vessel or person in charge of such vehicle or the owner of such vessel or vehicle shall be liable to a penalty of \$10 for each ounce thereof so found. Such penalties shall, notwithstanding the proviso in section 1594 of this title (relating to the immunity of vessels or vehicles used as common carriers), constitute a lien upon such vessel which may be enforced by a libel in rem; except that the master or owner of a vessel used by any person as a common carrier in the transaction of business as such common carrier shall not be liable to such penalties and the vessel shall not be held subject to the lien, if it appears to the satisfaction of the court that neither the master nor any of the officers (including licensed and unlicensed officers and petty officers) nor the owner of the vessel knew, and could not, by the exercise of the highest degree of care and diligence, have known, that such narcotic drugs were on board. Clearance of any such vessel may be withheld until such penalties are paid or until a bond, satisfactory to the collector, is given for the payment thereof. The provisions of this paragraph shall not prevent the forfeiture of any such vessel or vehicle under any other provision of law.

If any of such merchandise (sea stores excepted), the importation of which into the United States is prohibited, or which consists of any spirits, wines, or other alcoholic liquors for the importation of which into the United States a certificate is required under section 1707 of this title and the required certificate be not shown, be so found upon any vessel not ex-

ceeding five hundred net tons, the vessel shall, in addition to any other penalties herein or by law provided, be seized and forfeited, and, if any manifested merchandise (sea stores excepted) consisting of any such spirits, wines, or other alcoholic liquors be found upon any such vessel and the required certificate be not shown, the master of the vessel shall be liable to the penalty herein provided in the case of merchandise not duly manifested: *Provided*, That if the collector shall be satisfied that the certificate required for the importation of any spirits, wines, or other alcoholic liquors was issued and was lost or mislaid without intentional fraud, or was defaced by accident, or is incorrect by reason of clerical error or other mistake, said penalties shall not be incurred. (As amended Aug. 5, 1935, c. 438, Title II, § 204 49 Stat. 523.)

Act Aug. 5, 1935, affected second paragraph of section and added last paragraph.

**§ 1585. Departure before report or entry.** If any vessel or vehicle from a foreign port or place arrives within the limits of any collection district and departs or attempts to depart, except from stress of weather or other necessity, without making a report or entry under the provisions of this chapter, or if any merchandise is unladen therefrom before such report or entry, the master of such vessel shall be liable to a penalty of \$5,000, and the person in charge of such vehicle shall be liable to a penalty of \$500, and any such vessel or vehicle shall be forfeited, and any officer of the customs may cause such vessel or vehicle to be arrested and brought back to the most convenient port of the United States. (As amended Aug. 5, 1935, c. 438, Title III, § 303, 49 Stat. 527.)

Entry after visiting hovering vessel as arrival, see section 1432a of this title.

#### § 1586. Unlawful unloading or transshipment.

(a) The master of any vessel from a foreign port or place who allows any merchandise (including sea stores) to be unladen from such vessel at any time after its arrival within the customs waters and before such vessel has come to the proper place for the discharge of such merchandise, and before he has received a permit to unladen, shall be liable to a penalty equal to twice the value of the merchandise but not less than \$1,000, and such vessel and its cargo and the merchandise so unladen shall be seized and forfeited.

(b) The master of any vessel from a foreign port or place who allows any merchandise (including sea stores), the importation of which into the United States is prohibited, or which consists of any spirits, wines, or other alcoholic liquors, to be unladen from his vessel at any place upon the high seas adjacent to the customs waters of the United States to be transshipped to or placed in or received on any vessel of any description, with knowledge, or under circumstances indicating the purpose to render it possible, that such merchandise, or any part thereof, may be introduced, or attempted to be introduced, into the United States in violation of law, shall be liable to a penalty equal to twice the value of the merchandise but not less than \$1,000, and the vessel from which the merchandise is so unladen, and its cargo and such merchandise, shall be seized and forfeited.

(c) The master of any vessel from a foreign port or place who allows any merchandise (including sea stores) destined to the United States, the importation of which into the United States is prohibited, or which consists of any spirits, wines, or other alcoholic liquors, to be unladen, without permit to unladen, at any place upon the high seas adjacent to the customs waters of the United States, to be transshipped to or placed in or received on any vessel of the United States or any other vessel which is owned by any person a citizen of, or domiciled in, the United States, or any corporation incorporated in the United States, shall be liable to a penalty equal to twice the value of the merchandise but not less than \$1,000, and the vessel from which the merchandise is so unladen, and its cargo and such merchandise, shall be seized and forfeited.

(d) If any merchandise (including sea stores) unladen in violation of the provisions of this section is transhipped to or placed in or received on any other vessel, the master of the vessel on which such merchandise is placed, and any person aiding or assisting therein, shall be liable to a penalty equal to twice the value of the merchandise, but not less than \$1,000, and such vessel, and its cargo and such merchandise, shall be seized and forfeited.

(e) Whoever, at any place, if a citizen of the United States, or at any place in the United States or within one league of the coast of the United States, if a foreign national, shall engage or aid or assist in any unloading or transshipment of any merchandise in consequence of which any vessel becomes subject to forfeiture under the provisions of this section shall, in addition to any other penalties provided by law, be liable to imprisonment for not more than two years.

(f) Whenever any part of the cargo or stores of a vessel has been unladen or transhipped because of accident, stress of weather, or other necessity, the master of such vessel and the master of any vessel to which such cargo or stores has been transhipped shall, as soon as possible thereafter, notify the collector of the district within which such unloading or transshipment has occurred, or the collector within the district at which such vessel shall first arrive thereafter, and shall furnish proof that such unloading or transshipment was made necessary by accident, stress of weather, or other unavoidable cause, and if the collector is satisfied that the unloading or transshipment was in fact due to accident, stress of weather, or other necessity, the penalties described in this section shall not be incurred. (As amended Aug. 5, 1935, c. 438, Title II, § 205, 49 Stat. 524.)

Entry after visiting hovering vessel as arrival, see section 1432a of this title.

§ 1587. Examination of hovering vessels. (a) Any hovering vessel, or any vessel which fails (except for unavoidable cause), at any place within the customs waters or within a customs-enforcement area established under chapter 5 of this title, to display lights as required by law, or which has become subject to pursuit as provided in section 1581 of this title, or which, being a foreign vessel to which subsection (b) of said section 1581 applies, is permitted by special arrangement with a foreign government to be so examined without the customs waters of the United States, may at any time be boarded and examined by any officer of the customs, and the provisions of said section 1581 shall apply thereto, as well without as within his district, and in examining the same, any such officer may also examine the master upon oath respecting the cargo and voyage of the vessel, and may also bring the vessel into the most convenient port of the United States to examine the cargo, and if the master of said vessel refuses to comply with the lawful directions of such officer or does not truly answer such questions as are put to him respecting the vessel, its cargo, or voyage, he shall be liable to a penalty of not more than \$5,000 nor less than \$500. If, upon the examination of any such vessel or its cargo by any officer of the customs, any dutiable merchandise destined to the United States is found, or discovered to have been, on board thereof, the vessel and its cargo shall be seized and forfeited. It shall be presumed that any merchandise (sea stores excepted), the importation of which into the United States is prohibited, or which consists of any spirits, wines, or other alcoholic liquors, so found, or discovered to have been, on board thereof, is destined to the United States.

(b) If any vessel laden with cargo be found at any place in the United States or within the customs waters or within a customs-enforcement area established under chapter 5 of this title and such vessel afterwards is found light or in ballast or having discharged its cargo or any part thereof, and the master is unable to give a due account of the port or place at which the cargo, or any part thereof, consisting of any merchandise the importation of which into the United

States is prohibited or any spirits, wines, or other alcoholic liquors, was lawfully discharged, the vessel shall be seized and forfeited.

(c) Nothing contained in this section shall be construed to render any vessel liable to forfeiture which is bona fide bound from one foreign port to another foreign port, and which is pursuing her course, wind and weather permitting. (As amended Aug. 5, 1935, c. 438, Title II, § 206, 49 Stat. 525.)

§ 1591. Fraud; personal penalties. If any consignee, seller, owner, importer, consignee, agent, or other person or persons enters or introduces, or attempts to enter or introduce, into the commerce of the United States any imported merchandise by means of any fraudulent or false invoice, declaration, affidavit, letter, paper, or by means of any false statement, written or verbal, or by means of any false or fraudulent practice or appliance whatsoever, or makes any false statement in any declaration under the provisions of section 1485 of this chapter (relating to declaration on entry) without reasonable cause to believe the truth of such statement, or aids or procures the making of any such false statement as to any matter material thereto without reasonable cause to believe the truth of such statement, whether or not the United States shall or may be deprived of the lawful duties, or any portion thereof, accruing upon the merchandise, or any portion thereof, embraced or referred to in such invoice, declaration, affidavit, letter, paper, or statement; or is guilty of any willful act or omission by means whereof the United States shall or may be deprived of the lawful duties, or any portion thereof, accruing upon the merchandise, or any portion thereof, embraced or referred to in such invoice, declaration, affidavit, letter, paper, or statement, or affected by such act or omission, such person or persons shall upon conviction be fined for each offense a sum not exceeding \$5,000, or be imprisoned for a time not exceeding two years, or both, in the discretion of the court: *Provided*, That nothing in this section shall be construed to relieve imported merchandise from forfeiture by reason of such false statement or for any cause elsewhere provided by law. (As amended Aug. 5, 1935, c. 438, Title III, § 304 (a), 49 Stat. 527.)

§ 1592. Same—penalty against goods. If any consignee, seller, owner, importer, consignee, agent, or other person or persons enters or introduces, or attempts to enter or introduce, into the commerce of the United States any imported merchandise by means of any fraudulent or false invoice, declaration, affidavit, letter, paper, or by means of any false statement, written or verbal, or by means of any false or fraudulent practice or appliance whatsoever, or makes any false statement in any declaration under the provisions of section 1485 of this chapter (relating to declaration on entry) without reasonable cause to believe the truth of such statement, or aids or procures the making of any such false statement as to any matter material thereto without reasonable cause to believe the truth of such statement, whether or not the United States shall or may be deprived of the lawful duties, or any portion thereof, accruing upon the merchandise, or any portion thereof, embraced or referred to in such invoice, declaration, affidavit, letter, paper, or statement; or is guilty of any willful act or omission by means whereof the United States is or may be deprived of the lawful duties or any portion thereof, accruing upon the merchandise or any portion thereof, embraced or referred to in such invoice, declaration, affidavit, letter, paper, or statement, or affected by such act or omission, such merchandise, or the value thereof, to be recovered from such person or persons, shall be subject to forfeiture, which forfeiture shall only apply to the whole of the merchandise or the value thereof in the case or package containing the particular article or articles of merchandise to which such fraud or false paper or statement relates. The arrival within the territorial limits of the United States of any merchandise consigned for sale and re-

maining the property of the shipper or consignor, and the acceptance of a false or fraudulent invoice thereof by the consignee or the agent of the consignor, or the existence of any other facts constituting an attempted fraud, shall be deemed, for the purposes of this section, to be an attempt to enter such merchandise notwithstanding no actual entry has been made or offered. (As amended Aug. 5, 1935, c. 438, Title III, § 304 (b), 49 Stat. 527.)

§ 1601a. Wearing uniform or badge of Coast Guard or Customs Service while violating revenue laws. Whosoever without authority shall use the uniform or badge of the Coast Guard, or the Customs Service, or of any foreign revenue service, or any uniform, clothing, or badge resembling the same, while engaged, or assisting, in any violation of any revenue law of the United States, shall be fined not more than \$700 and imprisoned not more than two years (Aug. 5, 1935, c. 438, Title III, § 309, 49 Stat. 528.)

§ 1615. Burden of proof in forfeiture proceedings. In all suits or actions brought for the forfeiture of any vessel, vehicle, merchandise, or baggage seized under the provisions of any law relating to the collection of duties on imports or tonnage, where the property is claimed by any person, the burden of proof shall lie upon such claimant; and in all suits or actions brought for the recovery of the value of any vessel, vehicle, merchandise, or baggage, because of violation of any such law, the burden of proof shall be upon the defendant: *Provided*, That probable cause shall be first shown for the institution of such suit or action, to be judged of by the court, subject to the following rules of proof:

(1) The testimony or deposition of the officer of the customs who has boarded or required to come to a stop or seized a vessel or vehicle, or has arrested a person, shall be prima facie evidence of the place where the act in question occurred.

(2) Marks, labels, brands, or stamps, indicative of foreign origin, upon or accompanying merchandise [sic] or containers of merchandise, shall be prima facie evidence of the foreign origin of such merchandise.

(3) The fact that a vessel of any description is found, or discovered to have been, in the vicinity of any hovering vessel and under any circumstances indicating contact or communication therewith, whether by proceeding to or from such vessel, or by coming to in the vicinity of such vessel or by delivering to or receiving from such vessel any merchandise, person, or communication, or by any other means effecting contact or communication therewith, shall be prima facie evidence that the vessel in question has visited such hovering vessel. (As amended Aug. 5, 1935, c. 438, Title II, § 207, 49 Stat. 525.)

Act Aug. 5, 1935, amended section by adding from "subject to the following rules of proof" to end of section.

§ 1619. Award of compensation to informers. Any person not an officer of the United States who detects and seizes any vessel, vehicle, merchandise, or baggage subject to seizure and forfeiture under the customs laws or the navigation laws, and who reports the same to an officer of the customs, or who furnishes to a district attorney, to the Secretary of the Treasury, or to any customs officer original information concerning any fraud upon the customs revenue, or a violation of the customs laws or the navigation laws, perpetrated or contemplated, which detection and seizure or information leads to a recovery of any duties withheld, or of any fine, penalty, or forfeiture incurred, may be awarded and paid by the Secretary of the Treasury a compensation of 25 per centum of the net amount recovered, but not to exceed \$50,000 in any case, which shall be paid out of any appropriations available for the collection of the revenue from customs. For the purposes of this section an amount recovered under a bail bond shall be deemed a recovery of a fine incurred. If any vessel, vehicle, merchandise, or baggage is forfeited to the United States, and is thereafter, in lieu of sale, destroyed under the

customs or navigation laws or delivered to any governmental agency for official use, compensation of 25 per centum of the appraised value thereof may be awarded and paid by the Secretary of the Treasury under the provisions of this section, but not to exceed \$50,000 in any case. (As amended Aug. 5, 1935, c. 438, Title III, § 305, 49 Stat. 527.)

§ 1621. Limitation of actions. No suit or action to recover any pecuniary penalty or forfeiture of property accruing under the customs laws shall be instituted unless such suit or action is commenced within five years after the time when the alleged offense was discovered: *Provided*, That the time of the absence from the United States of the person subject to such penalty or forfeiture, or of any concealment or absence of the property, shall not be reckoned within this period of limitation. (As amended Aug. 5, 1935, c. 438, Title III, § 306, 49 Stat. 527.)

§ 1641. Customhouse brokers.

\* \* \* \* \*  
(b) Revocation or suspension; appeal. \* \* \* \* \*  
Thereupon the said Secretary of the Treasury shall have the right to revoke or suspend the license of any customhouse broker shown to be incompetent, disreputable, or who has refused to comply with the rules and regulations issued under this section, or who has, with intent to defraud, in any manner willfully and knowingly deceived, misled, or threatened any importer, exporter, claimant, or client, or prospective importer, exporter, claimant, or client, by word, circular, letter or by advertisement.

An appeal may be taken by any licensed customhouse broker from any order of the Secretary of the Treasury suspending or revoking a license. Such appeal shall be taken by filing, in the circuit court of appeals of the United States within any circuit wherein such person resides or has his principal place of business, or in the United States Court of Appeals for the District of Columbia, within sixty days after the entry of such order, a written petition praying that the order of the Secretary of the Treasury be modified or set aside in whole or in part. A copy of such petition shall be forthwith served upon the Secretary of the Treasury, or upon any officer designated by him for that purpose, and thereupon the Secretary of the Treasury shall certify and file in the court a transcript of the record upon which the order complained of was entered. Upon the filing of such transcript such court shall have exclusive jurisdiction to affirm, modify, or set aside such order, in whole or in part. No objection to the order of the Secretary of the Treasury shall be considered by the court unless such objection shall have been urged before the collector or chief officer of customs or unless there were reasonable grounds for failure so to do. The finding of the Secretary of the Treasury as to the facts, if supported by substantial evidence, shall be conclusive. If any party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for failure to adduce such evidence in the proceeding before the collector or chief officer of customs, the court may order such additional evidence to be taken before the collector or chief officer of customs and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The Secretary of the Treasury may modify his findings as to the facts by reason of the additional evidence so taken, and he shall file with the court such modified or new findings, which, if supported by substantial evidence, shall be conclusive, and his recommendation, if any, for the modification or setting aside of the original order. The judgment and decree of the court affirming, modifying, or setting aside, in whole or in part, any such order of the Secretary of the Treasury shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in sections 346 and 347 of Title 28. The commencement of proceedings under

this subsection shall, unless specifically ordered by the court, operate as a stay of the Secretary of the Treasury's order.

(c) **Prior licenses.** Licenses issued under section 415 of Title 19 [Repealed] or under the provisions of subdivision (a) of this section prior to August 26, 1935, shall continue in force and effect, subject to suspension and revocation as provided in subdivision (b) of this section.

(d) **Regulations by Secretary.** The Secretary of the Treasury shall prescribe such rules and regulations as he may deem necessary to protect importers and the revenue of the United States, and to carry out the provisions of this section, including rules and regulations requiring the keeping of books, accounts, and records by customhouse brokers, and the inspection thereof, and of their papers, documents, and correspondence by, and the furnishing by them of information relating to their business to, any duly accredited agent of the United States. (As amended Aug 26, 1935, c. 689, § 4, 49 Stat. 864.)

Subsection (a) of this section was amended by Act Aug 26, 1935, c. 689, § 3, 49 Stat. 864, by striking out "(e)" in the last sentence and inserting in lieu thereof "(c)".

Subsection (e) of this section was repealed by Act August 26, 1935, c. 689, § 5, 49 Stat. but sections 415 to 419 of this title, which were repealed by said paragraph, were not thereby revived

### Chapter 5.—ANTI-SMUGGLING ACT

- Sec.  
1701 Customs-enforcement area.  
 (a) Establishment; extent and duration; enforcement of laws applicable to waters adjacent to customs waters  
 (b) Boarding vessels; arrest and seizure; compliance with treaty provisions; authority of Secretary of Commerce unaffected.  
 1702 Smuggling into territory of foreign government.  
 (a) Allowing vessel owned or controlled to engage in smuggling; persons aiding or assisting vessel; penalty.  
 (b) Lessor or charterer of vessel with knowledge of purpose to smuggle as within section.  
 1703. Seizure and forfeiture of vessels:  
 (a) Vessels subject to seizure and forfeiture.  
 (b) "Vessels of the United States."  
 (c) Acts constituting prima facie evidence vessel engaged in smuggling  
 1704 Refusal or revocation of registry, enrollment, license or number on evidence that vessel engaging in smuggling; appeal to Secretary of Commerce; immunity of collectors from liability  
 1705 Destruction of forfeited vessel.  
 1706 Importation in vessels under thirty tons and aircraft; licenses; labels as prima facie evidence of foreign origin of merchandise.  
 1707 Certificate for importation of alcoholic liquors in small vessels; bond where liquor destined to foreign port; penalty for failure to carry; lost, defaced, or incorrect certificate as relieving from penalty  
 1708 Lading vessel in foreign port with liquor for importation.  
 (a) Allowing lading without certificate for importation; liability of master  
 (b) Procuring lading with intent to defraud revenue laws; liability of citizen, master and members of crew of United States vessel.  
 1709. Definitions  
 1710 Separability clause  
 1711. Citation of chapter.

§ 1701. Customs-enforcement area—(a) **Establishment; extent and duration; enforcement of laws applicable to waters adjacent to customs waters.** Whenever the President finds and declares that at any place or within any area on the high seas adjacent to but outside customs waters any vessel or vessels hover or are being kept off the coast of the United States and that, by virtue of the presence of any such vessel or vessels at such place or within such area, the unlawful introduction or removal into or from the United States of any merchandise or person is being or may be occasioned, promoted, or threatened, the place or area so found and declared shall constitute a customs-enforcement area for the purposes of this chapter. Only such waters on the high seas shall be within a customs-enforcement area as the President finds and declares are in such proximity to such vessel or vessels that such unlawful introduction or removal of merchandise or persons may be carried on by or to or from such vessel or

vessels. No customs-enforcement area shall include any waters more than one hundred nautical miles from the place or immediate area where the President declares such vessel or vessels are hovering or are being kept and, notwithstanding the foregoing provision, shall not include any waters more than fifty nautical miles outwards from the outer limit of customs waters. Whenever the President finds that, within any customs-enforcement area, the circumstances no longer exist which gave rise to the declaration of such area as a customs-enforcement area, he shall so declare, and thereafter, and until a further finding and declaration is made under this subsection with respect to waters within such area, no waters within such area shall constitute a part of such customs-enforcement area. The provisions of law applying to the high seas adjacent to customs waters of the United States shall be enforced in a customs-enforcement area upon any vessel, merchandise, or person found therein.

(b) **Boarding vessels; arrest and seizure; compliance with treaty provisions; authority of Secretary of Commerce unaffected.** At any place within a customs-enforcement area the several officers of the customs may go on board of any vessel and examine the vessel and any merchandise or person on board, and bring the same into port, and, subject to regulations of the Secretary of the Treasury, it shall be their duty to pursue and seize or arrest and otherwise enforce upon such vessel, merchandise, or person, the provisions of law which are made effective thereto in pursuance of subsection (a) in the same manner as such officers are or may be authorized or required to do in like case at any place in the United States by virtue of any law respecting the revenue: *Provided*, That nothing contained in this section or in any other provision of law respecting the revenue shall be construed to authorize or to require any officer of the United States to enforce any law thereof upon the high seas upon a foreign vessel in contravention of any treaty with a foreign government enabling or permitting the authorities of the United States to board, examine, search, seize, or otherwise to enforce upon such vessel upon the high seas the laws of the United States except as such authorities are or may otherwise be enabled or permitted under special arrangement with such foreign government: *Provided further*, That none of the provisions of this chapter shall be construed to relieve the Secretary of Commerce of any authority, responsibility, or jurisdiction now vested in or imposed on that officer. (Aug. 5, 1935, c. 438, Title I, § 1, 49 Stat. 518.)

§ 1702. Smuggling into territory of foreign government—(a) **Allowing vessel owned or controlled to engage in smuggling; persons aiding or assisting vessel; penalty.** Any person owning in whole or in part any vessel of the United States who employs, or participates in, or allows the employment of, such vessel for the purpose of smuggling, or attempting to smuggle, or assisting in smuggling, any merchandise into the territory of any foreign government in violation of the laws there in force, if under the laws of such foreign government any penalty or forfeiture is provided for violation of the laws of the United States respecting the customs revenue, and any citizen of, or person domiciled in, or any corporation incorporated in, the United States, controlling or substantially participating in the control of any such vessel, directly or indirectly, whether through ownership of corporate shares or otherwise, and allowing the employment of said vessel for any such purpose, and any person found, or discovered to have been, on board of any such vessel so employed and participating or assisting in any such purpose, shall be liable to a fine of not more than \$5,000 or to imprisonment for not more than two years, or to both such fine and imprisonment.

(b) **Lessor or charterer of vessel with knowledge of purpose to smuggle as within section.** It shall constitute an offense under this section to hire out or charter a vessel if the lessor or charterer has knowledge that, or if such vessel is leased or chartered



under circumstances which would give rise to a reasonable belief that, the lessee or person chartering the vessel intends to employ such vessel for any of the purposes described in subsection (a) and if such vessel is, during the time such lease or charter is in effect, employed for any such purpose (Aug. 5, 1935, c. 438, Title I, § 2, 49 Stat. 518.)

**§ 1703. Seizure and forfeiture of vessels—(a) Vessels subject to seizure and forfeiture.** Whenever any vessel which shall have been built, purchased, fitted out in whole or in part, or held, in the United States or elsewhere, for the purpose of being employed to defraud the revenue or to smuggle any merchandise into the United States, or to smuggle any merchandise into the territory of any foreign government in violation of the laws there in force, if under the laws of such foreign government any penalty or forfeiture is provided for violation of the laws of the United States respecting the customs revenue or whenever any vessel which shall be found, or discovered to have been, employed, or attempted to be employed, within the United States for any such purpose, or in anywise in assistance thereof, or whenever any vessel of the United States which shall be found, or discovered to have been, employed, or attempted to be employed at any place, for any such purpose, or in anywise in assistance thereof, if not subsequently forfeited to the United States or to a foreign government, is found at any place at which any such vessel may be examined by an officer of the customs in the enforcement of any law respecting the revenue, the said vessel and its cargo shall be seized and forfeited.

**(b) "Vessels of the United States."** Every vessel which is documented, owned, or controlled in the United States, and every vessel of foreign registry which is, directly or indirectly, substantially owned or controlled by any citizen of, or corporation incorporated, owned, or controlled in, the United States, shall, for the purposes of this section, be deemed a vessel of the United States

**(c) Acts constituting prima facie evidence vessel engaged in smuggling.** For the purposes of this section, the fact that a vessel has become subject to pursuit as provided in section 1581 of this title, or is a hovering vessel, or that a vessel fails, at any place within the customs waters of the United States or within a customs-enforcement area, to display lights as required by law, shall be prima facie evidence that such vessel is being, or has been, or is attempting to be employed to defraud the revenue of the United States (Aug. 5, 1935, c. 438, Title I, § 3, 49 Stat. 518.)

**§ 1704. Refusal or revocation of registry, enrollment, license or number on evidence that vessel engaging in smuggling; appeal to Secretary of Commerce; immunity of collectors from liability.** Subject to appeal to the Secretary of Commerce and under such regulations as he may prescribe, whenever the collector of customs of the district in which any vessel is, or is sought to be, registered, enrolled, licensed, or numbered, is shown upon evidence which he deems sufficient that such vessel is being, or is intended to be, employed to smuggle, transport, or otherwise assist in the unlawful introduction or importation into the United States of any merchandise or person, or to smuggle any merchandise into the territory of any foreign government in violation of the laws there in force, if under the laws of such foreign government any penalty or forfeiture is provided for violation of the laws of the United States respecting the customs revenue, or whenever, from the design or fittings of any vessel or the nature of any repairs made thereon, it is apparent to such collector that such vessel has been built or adapted for the purpose of smuggling merchandise, the said collector shall revoke the registry, enrollment, license, or number of said vessel or refuse the same if application be made therefor, as the case may be. Such collector and all persons acting by or under his direction shall be indemnified from any penalties or

actions for damages for carrying out the provisions of this section (Aug. 5, 1935, c. 438, Title I, § 4, 49 Stat. 519)

**§ 1705. Destruction of forfeited vessel.** Any vessel or vehicle forfeited to the United States, whether summarily or by a decree of any court, for violation of any law respecting the revenue, may, in the discretion of the Secretary of the Treasury, if he deems it necessary to protect the revenue of the United States, be destroyed in lieu of the sale thereof under existing law. (Aug. 5, 1935, c. 438, Title I, § 5, 49 Stat. 519)

**§ 1706. Importation in vessels under thirty tons and aircraft; licenses; labels as prima facie evidence of foreign origin of merchandise.** Except into the districts adjoining to the Dominion of Canada, or into the districts adjacent to Mexico, no merchandise of foreign growth or manufacture subject to the payment of duties shall be brought into the United States from any foreign port or place, or from any hovering vessel, in any vessel of less than thirty net tons burden without special license granted by the Secretary of the Treasury under such conditions as he may prescribe, nor in any other manner than by sea, except by aircraft duly licensed in accordance with law, or landed or unladen at any other port than is directed by law, under the penalty of seizure and forfeiture of all such unlicensed vessels or aircraft and of the merchandise imported therein, landed or unladen in any manner. Marks, labels, brands, or stamps, indicative of foreign origin, upon or accompanying merchandise or containers of merchandise found upon any such vessel or aircraft, shall be prima facie evidence of the foreign origin of such merchandise. (Aug. 5, 1935, c. 438, Title I, § 6, 49 Stat. 519.)

**§ 1707. Certificate for importation of alcoholic liquors in small vessels; bond where liquor destined to foreign port; penalty for failure to carry; lost, defaced, or incorrect certificate as relieving from penalty.** In addition to any other requirement of law, every vessel, not exceeding five hundred net tons, from a foreign port or place, or which has visited a hovering vessel, shall carry a certificate for the importation into the United States of any spirits, wines, or other alcoholic liquors on board thereof (sea stores excepted), destined to the United States, said certificate to be issued by a consular officer of the United States or other authorized person pursuant to such regulations as the Secretary of State and the Secretary of the Treasury may jointly prescribe. Any spirits, wines, or other alcoholic liquors (sea stores excepted) found, or discovered to have been, upon any such vessel at any place in the United States, or within the customs waters, without said certificate on board, which are not shown to have a bona fide destination without the United States, shall be seized and forfeited and, in the case of any such merchandise so destined to a foreign port or place, a bond shall be required in double the amount of the duties to which such merchandise would be subject if imported into the United States, conditioned upon the delivery of said merchandise at such foreign port or place as may be certified by a consular officer of the United States or otherwise as provided in said regulations: *Provided*, That if the collector shall be satisfied that the certificate required for the importation of any spirits, wines, or other alcoholic liquors was issued and was lost or mislaid without fraud, or was defaced by accident, or is incorrect by reason of clerical error or other mistake, said penalties shall not be incurred nor shall such bond be required. This section shall take effect on the sixtieth day following Aug. 5, 1935. (Aug. 5, 1935, c. 438, Title I, § 7, 49 Stat. 520.)

**§ 1708. Lading vessel in foreign port with liquor for importation—(a) Allowing lading without certificate for importation; liability of master.** If the master of any vessel of the United States, not exceed

ing five hundred net tons, allows such vessel to be laden at any foreign port or other place without the United States with any merchandise destined to the United States and consisting of any spirits, wines, or other alcoholic liquors (sea stores excepted), which facts may be evidenced by the testimony or depositions of foreign administrative officials or certified copies of their records or by other sufficient evidence, without certificate issued for the importation of such merchandise into the United States as required by section 1707 of this chapter, the master of such vessel shall, in addition to any other penalties provided by law, be liable to a penalty equal to the value of the said merchandise but not less than \$1,000 and such vessel and such merchandise shall be seized and forfeited.

(b) **Procuring lading with intent to defraud revenue laws; liability of citizen, master and members of crew of United States vessel.** Whoever, being a citizen of the United States or a master or a member of the crew of a vessel of the United States, if such vessel does not exceed five hundred net tons, shall, with intent to defraud the revenue of the United States, procure, or aid or assist in procuring, any merchandise destined to the United States and consisting of any spirits, wines, or other alcoholic liquors, without certificate issued for the importation thereof into the United States as required by section 1707 of this title, to be laden upon such vessel at any foreign port or other place without the United States, which facts may be evidenced by the testimony or depositions of foreign administrative officials or certified copies of their records or by other sufficient evidence, shall, in addition to any other penalties provided by law, be liable to a fine of not more than \$1,000 or to imprisonment for not more than two years, or to both such fine and imprisonment. (Aug. 5, 1935, c. 438, Title I, § 8, 49 Stat. 520.)

**§ 1709. Definitions.** When used in this chapter:

(a) The term "United States", when used in a geographical sense, includes all Territories and possessions of the United States, except the Philippine

Islands, the Virgin Islands, the Canal Zone, American Samoa, and the island of Guam

(b) The term "officer of the customs" means any officer of the Customs Service or any commissioned, warrant, or petty officer of the Coast Guard, or agent or other person authorized by law or by the Secretary of the Treasury, or appointed in writing by a collector, to perform the duties of an officer of the Customs Service

(c) The term "customs waters" means, in the case of a foreign vessel subject to a treaty or other arrangement between a foreign government and the United States enabling or permitting the authorities of the United States to board, examine, search, seize, or otherwise to enforce upon such vessel upon the high seas the laws of the United States, the waters within such distance of the coast of the United States as the said authorities are or may be so enabled or permitted by such treaty or arrangement and, in the case of every other vessel, the waters within four leagues of the coast of the United States.

(d) The term "hovering vessel" means any vessel which is found or kept off the coast of the United States within or without the customs waters, if, from the history, conduct, character, or location of the vessel, it is reasonable to believe that such vessel is being used or may be used to introduce or promote or facilitate the introduction or attempted introduction of merchandise into the United States in violation of the laws respecting the revenue. (Act Aug. 5, 1935, c. 438, Title IV, § 401, 49 Stat. 529.)

**§ 1710. Separability clause.** If any clause, sentence, paragraph, or part of this chapter, or the application thereof to any person, or circumstances, is held invalid, the application thereof to other persons, or circumstances, and the remainder of the chapter, shall not be affected thereby. (Aug. 5, 1935, c. 438, Title IV, § 402, 49 Stat. 529.)

**§ 1711. Citation of chapter.** This chapter may be cited as the "Anti-Smuggling Act". (Act Aug. 5, 1935, c. 438, Title IV, § 403, 49 Stat. 529.)

## TITLE 20.—EDUCATION

### Chapter 3.—SMITHSONIAN INSTITUTION (AND NATIONAL MUSEUM)

In schedule of sections for Chapter 3, the heading "48a  
Salary of additional assistant secretary" should be omitted.

Page 165



## TITLE 21.—FOOD AND DRUGS

### Chapter 1.—ADULTERATED OR MISBRANDED FOODS OR DRUGS

§ 14a. Sea food sold in interstate commerce; examinations; fees; offenses. The Secretary of Agriculture, upon application of any packer of any sea food for shipment or sale within the jurisdiction of sections 1 to 5 and 7 to 15 of this title, may, at his discretion, designate inspectors to examine and inspect such food and the production, packing, and labeling thereof. If on such examination and inspection compliance is found with the provisions of such sections and regulations promulgated thereunder, the applicant shall be authorized or required to mark the food as provided by regulation to show such compliance. Services under this section shall be rendered only upon payment by the applicant of fees fixed by regulation in such amounts as may be necessary to provide, equip, and maintain an adequate and efficient inspection service. Receipts from such fees shall be covered into the Treasury and shall be available to the Secretary of Agriculture for expenditures incurred in carrying out the purposes of this section, including expenditures for salaries of additional inspectors when necessary to supplement the number of inspectors for whose salaries Congress has appropriated. The Secretary is hereby authorized to promulgate regulations governing the sanitary and other conditions under which the service herein provided shall be granted and main-

tained, and for otherwise carrying out the purposes of this section. Any person who forges, counterfeits, simulates, or falsely represents, or without proper authority uses any mark, stamp, tag, label, or other identification devices authorized or required by the provisions of this section or regulations thereunder, shall be guilty of a misdemeanor, and shall on conviction thereof be subject to imprisonment for not more than one year or a fine of not less than \$1,000 nor more than \$5,000, or both such imprisonment and fine. (As amended Aug. 27, 1935, c. 739, 49 Stat. 871.)

### Chapter 3.—FILLED MILK

§ 64. Same; regulations for enforcement of chapter. The Secretary of Agriculture is authorized and directed to make and enforce such regulations as may in his judgment be necessary to carry out the purposes of this chapter. (Mar. 4, 1923, c. 262, § 4, as added Aug. 27, 1935, c. 743, 49 Stat. 885.)

### Chapter 4.—ANIMALS, MEATS, AND MEAT AND DAIRY PRODUCTS

#### PREVENTION OF INTRODUCTION AND SPREAD OF CONTAGION

§ 129. Payment for animals purchased; computation of value, and amount paid.

Repeated, Act May 17, 1935, c. 131, Title I, § 1, 49 Stat. 257.



## TITLE 22.—FOREIGN RELATIONS AND INTERCOURSE

### Chapter 1.—DIPLOMATIC AND CONSULAR SERVICE GENERALLY

#### ORGANIZATION OF FOREIGN SERVICE OF UNITED STATES

§ 4. Appointment of Foreign Service officers as diplomatic secretaries or as consular officers; official acts under respective commissions. That all appointments and promotions of Foreign Service officers shall be made by the President by and with the advice and consent of the Senate and such officers may be commissioned as diplomatic or consular officers or both: *Provided*, That Foreign Service officers now or hereafter appointed or promoted during a recess of the Senate shall be paid the compensation of the position to which appointed or promoted from the date of such appointment or promotion until the end of the next session of the Senate if they have not theretofore been confirmed by the Senate, or until their rejection by the Senate before the end of its next session: *Provided further*, That if the Senate should reject or fail to confirm the promotion of a Foreign Service officer during the session following the date of such promotion, the Foreign Service officer shall automatically be reinstated in the position from which he was promoted, such reinstatement to be effective, in the event of rejection of the nomination, from the date of rejection; and in the event of failure of the Senate to act on the nomination during the session following a promotion, from the termination of that session: *And provided further*, That all official acts of such officers while serving under diplomatic or consular commissions in the Foreign Service shall be performed under their respective commissions as secretaries or as consular officers. (As amended June 29, 1935, c. 337, 49 Stat. 436.)

#### DIPLOMATIC OFFICERS GENERALLY

§ 37. Special allowance to messenger of embassy at Paris.

In the opinion of the Secretary of State this section is obsolete.

#### CONSULAR OFFICERS GENERALLY

§ 58. Expense allowance to vice consulate or consular agency.

In the opinion of the Secretary of State this section is obsolete.

#### POWERS, DUTIES, AND LIABILITIES OF CONSULAR OFFICERS GENERALLY

§ 109. Allowance for office rent of consulates.

In the opinion of the Secretary of State this section is obsolete.

### Chapter 3.—UNITED STATES COURT FOR CHINA

§ 197b. Special judge; appointment and compensation. The President may appoint a special judge of the United States Court for China to act temporarily when necessary—

(a) During the absence of the judge of said court;  
(b) During any period of disability or disqualification, from sickness or otherwise, to discharge his duties; or  
(c) In the event of a vacancy in the office of judge.

Such special judge shall receive the same rate of compensation, and the same allowances for expenses and transportation when acting outside of Shanghai, as are paid and allowed the judge of said court. No compensation shall be paid to said judge excepting in

the actual discharge of his duties as provided by this section. (June 30, 1906, c. 3934, § 10, as added Aug. 7, 1935, c. 452, § 1, 49 Stat. 539.)

§ 198. Commissioner for court; appointment; powers and compensation; district of Shanghai.

See section 198a, which makes provision for the appointment of a commissioner but makes no reference to this section. Section 2 of the Act cited to section 198a provided that "all laws and parts of laws in conflict herewith are hereby repealed."

§ 198a. Commissioner for court; judge of consular court; appointment; compensation; clerk as substitute. The judge of the United States Court for China is hereby authorized to appoint, as in the District Courts of the United States and with similar powers and tenure of office, a United States commissioner, who shall in addition to his other duties be judge of the consular court for the district of Shanghai, with all the authority and jurisdiction exercised prior to June 4, 1920, by the vice consul at Shanghai. Said commissioner shall receive for his services as commissioner and judge of said consular court such compensation as may be fixed by the Attorney General, not exceeding \$10 per day for each day of service actually rendered. In the event of a vacancy in the office of said commissioner or the disability or disqualification or absence of said commissioner, the judge of the United States Court for China may appoint the clerk of said court temporarily to perform the duties of commissioner and judge of the consular court for the district of Shanghai without additional compensation therefor. (June 30, 1906, c. 3934, § 11, as added Aug. 7, 1935, c. 452, § 1, 49 Stat. 538.)

### Chapter 5.—PRESERVATION OF FRIENDLY RELATIONS GENERALLY

§ 245a. Exportation of munitions of war to belligerent countries prohibited; outbreak of war and enumeration of munitions by Presidential proclamation; penalties; duration of section. Upon the outbreak or during the progress of war between, or among, two or more foreign states, the President shall proclaim such fact, and it shall thereafter be unlawful to export arms, ammunition, or implements of war from any place in the United States, or possessions of the United States, to any port of such belligerent states, or to any neutral port for transshipment to, or for the use of, a belligerent country.

The President, by proclamation, shall definitely enumerate the arms, ammunition, or implements of war, the export of which is prohibited by sections 245a to 245i of this title.

The President may, from time to time, by proclamation, extend such embargo upon the export of arms, ammunition, or implements of war to other states as and when they may become involved in such war.

Whoever, in violation of any of the provisions of this section, shall export, or attempt to export, or cause to be exported, arms, ammunition, or implements of war from the United States, or any of its possessions, shall be fined not more than \$10,000 or imprisoned not more than five years, or both, and the property, vessel, or vehicle containing the same shall be subject to the provisions of sections 238 to 245 of this title.

In the case of the forfeiture of any arms, ammunition, or implements of war by reason of a violation of sections 245a to 245i of this title, no public or private sale shall be required; but such arms, ammunition, or implements of war shall be delivered to the Secretary of War for such use or disposal thereof as shall be approved by the President of the United States.



When in the judgment of the President the conditions which have caused him to issue his proclamation have ceased to exist he shall revoke the same and the provisions hereof shall thereupon cease to apply.

Except with respect to prosecutions committed or forfeitures incurred prior to March 1, 1936, this section and all proclamations issued thereunder shall not be effective after February 29, 1936 (Aug. 31, 1935, c. 837, § 1, 49 Stat. 1081.)

§ 245b. Definitions; National Munitions Control Board, establishment, meetings and reports; registration of manufacturers, etc.; export and import licenses; purchases by United States from unregistered persons; enumeration of munitions; effective date of section. That for the purposes of sections 245a to 245i of this title—

(a) The term "Board" means the National Munitions Control Board which is hereby established to carry out the provisions of sections 245a to 245i of this title. The Board shall consist of the Secretary of State, who shall be chairman and executive officer of the Board; the Secretary of the Treasury; the Secretary of War; the Secretary of the Navy; and the Secretary of Commerce. Except as otherwise provided in this Act, or by other law, the administration of said sections is vested in the Department of State;

(b) The term "United States" when used in a geographical sense, includes the several States and Territories, the insular possessions of the United States (including the Philippine Islands), the Canal Zone, and the District of Columbia;

(c) The term "person" includes a partnership, company, association, or corporation, as well as a natural person.

Within ninety days after the effective date of sections 245a to 245i of this title, or upon first engaging in business, every person who engages in the business of manufacturing, exporting, or importing any of the arms, ammunition, and implements of war referred to in said sections, whether as an exporter, importer, manufacturer, or dealer, shall register with the Secretary of State his name, or business name, principal place of business, and places of business in the United States, and a list of the arms, ammunition, and implements of war which he manufactures, imports, or exports.

Every person required to register under this section shall notify the Secretary of State of any change in the arms, ammunition, and implements of war which he exports, imports, or manufactures; and upon such notification the Secretary of State shall issue to such person an amended certificate of registration, free of charge, which shall remain valid until the date of expiration of the original certificate. Every person required to register under the provisions of this section shall pay a registration fee of \$500, and upon receipt of such fee the Secretary of State shall issue a registration certificate valid for five years, which shall be renewable for further periods of five years upon the payment of each renewal of a fee of \$500.

It shall be unlawful for any person to export, or attempt to export, from the United States any of the arms, ammunition, or implements of war referred to in sections 245a to 245i of this title to any other country or to import, or attempt to import, to the United States from any other country any of the arms, ammunition, or implements of war referred to in said sections without first having obtained a license therefor.

All persons required to register under this section shall maintain, subject to the inspection of the Board, such permanent records of manufacture for export, importation, and exportation of arms, ammunition, and implements of war as the Board shall prescribe.

Licenses shall be issued to persons who have registered as provided for, except in cases of export or import licenses where exportation of arms, ammunition, or implements of war would be in violation of sections 245a to 245i of this title or any other law of the United States, or of a treaty to which the United States is a party, in which cases such licenses shall not be issued.

The Board shall be called by the Chairman and shall hold at least one meeting a year

No purchase of arms, ammunition, and implements of war shall be made on behalf of the United States by any officer, executive department, or independent establishment of the Government from any person who shall have failed to register under the provisions of section 245b of this title.

The Board shall make an annual report to Congress, copies of which shall be distributed as are other reports transmitted to Congress. Such report shall contain such information and data collected by the Board as may be considered of value in the determination of questions connected with the control of trade in arms, ammunition, and implements of war. It shall include a list of all persons required to register under the provisions of section 245b of this title, and full information concerning the licenses issued hereunder

The Secretary of State shall promulgate such rules and regulations with regard to the enforcement of this section as he may deem necessary to carry out its provisions.

The President is hereby authorized to proclaim upon recommendation of the Board from time to time a list of articles which shall be considered arms, ammunition, and implements of war for the purposes of this section.

This section shall take effect on the ninetieth day after the date of its enactment. (Aug. 31, 1935, c. 837, § 2, 49 Stat. 1082.)

§ 245c. Exportation after proclamation of fact of war; penalties and forfeitures. Whenever the President shall issue the proclamation provided for in section 245a of this title, thereafter it shall be unlawful for any American vessel to carry any arms, ammunition, or implements of war to any port of the belligerent countries named in such proclamation as being at war, or to any neutral port for transshipment to, or for the use of, a belligerent country.

Whoever, in violation of the provisions of this section, shall take, attempt to take, or shall authorize, hire, or solicit another to take any such vessel carrying such cargo out of port or from the jurisdiction of the United States shall be fined not more than \$10,000 or imprisoned not more than five years, or both; and, in addition, such vessel, her tackle, apparel, furniture, equipment, and the arms, ammunition, and implements of war on board shall be forfeited to the United States.

When the President finds the conditions which have caused him to issue his proclamation have ceased to exist, he shall revoke his proclamation, and the provisions of this section shall thereupon cease to apply. (Aug. 31, 1935, c. 837, § 3, 49 Stat. 1083.)

§ 245d. Bond required of persons suspected of unlawful exportation before departure of vessel; prohibiting departure of vessel previously guilty of violation. Whenever, during any war in which the United States is neutral, the President, or any person thereunto authorized by him, shall have cause to believe that any vessel, domestic or foreign, whether requiring clearance or not, is about to carry out of a port of the United States, or its possession, men or fuel, arms, ammunition, implements of war, or other supplies to any warship, tender, or supply ship of a foreign belligerent nation, but the evidence is not deemed sufficient to justify forbidding the departure of the vessel as provided for by section 31 of Title 18, and if, in the President's judgment, such action will serve to maintain peace between the United States and foreign nations, or to protect the commercial interests of the United States and its citizens, or to promote the security of the United States, he shall have the power and it shall be his duty to require the owner, master, or person in command thereof, before departing from a port of the United States, or any of its possessions, for a foreign port, to give a bond to the United States, with sufficient sureties, in such amount as he shall deem proper, conditioned that the vessel will not deliver the men, or the cargo, or

any part thereof, to any warship, tender, or supply ship of a belligerent nation; and, if the President, or any person thereunto authorized by him, shall find that a vessel, domestic or foreign, in a port of the United States, or one of its possessions, has previously cleared from such port during such war and delivered its cargo or any part thereof to a warship, tender, or supply ship of a belligerent nation, he may prohibit the departure of such vessel during the duration of the war. (Aug. 31, 1935 c. 837, § 4, 49 Stat. 1083.)

§ 245e. **Entry in or departure from ports of United States of submarines of belligerent nation; proclamation of President.** Whenever, during any war in which the United States is neutral, the President shall find that special restrictions placed on the use of the ports and territorial waters of the United States, or of its possessions, by the submarines of a foreign nation will serve to maintain peace between the United States and foreign nations, or to protect the commercial interests of the United States and its citizens, or to promote the security of the United States, and shall make proclamation thereof, it shall thereafter be unlawful for any such submarine to enter a port or the territorial waters of the United States or any of its possessions, or to depart therefrom, except under such conditions and subject to such limitations as the President may prescribe. When, in his judgment, the conditions which have caused him to issue his proclamation have ceased to exist, he shall revoke his proclamation and the provisions of this section shall thereupon cease to apply. (Aug. 31, 1935, c. 837, § 5, 49 Stat. 1084.)

§ 245f. **Restricting travel of American citizens on belligerent ships during war.** Whenever, during any war in which the United States is neutral, the President shall find that the maintenance of peace between the United States and foreign nations, or the protection of the lives of citizens of the United States, or the protection of the commercial interests of the United States and its citizens, or the security of the United States requires that the American citizens should refrain from traveling as passengers on the vessels of any belligerent nation, he shall so proclaim, and thereafter no citizen of the United States shall travel on any vessel of any belligerent nation except at his own risk, unless in accordance with such rules and regulations as the President shall prescribe: *Provided, however,* That the provisions of this section shall not apply to a citizen traveling on the vessel of a belligerent whose voyage was begun in advance of the date of the President's proclamation, and who had no opportunity to discontinue his voyage after that date: *And provided further,* That they shall not apply under ninety days after the date of the President's proclamation to a citizen returning from a foreign country to the United States or to any of its possessions. When, in the President's judgment, the conditions which have caused him to issue his proclamation have ceased to exist, he shall revoke his proclamation and the provisions of this section shall

thereupon cease to apply. (Aug. 31, 1935, c. 837, § 6, 49 Stat. 1084.)

§ 245g. **General penalties.** In every case of the violation of any of the provisions of sections 245a to 245i of this title where a specific penalty is not herein provided, such violator or violators, upon conviction, shall be fined not more than \$10,000 or imprisoned not more than five years, or both. (Aug. 31, 1935, c. 837, § 7, 49 Stat. 1084.)

§ 245h. **Separability clause.** If any of the provisions of sections 245a to 245i of this title, or the application thereof to any person or circumstance, is held invalid, the remainder of said sections, and the application of such provision to other persons or circumstances, shall not be affected thereby. (Aug. 31, 1935, c. 837, § 8, 49 Stat. 1084.)

§ 245i. **Appropriation to administer sections 245a to 245h.** The sum of \$25,000 is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, to be expended by the Secretary of State in administering sections 245a to 245i of this title. (Aug. 31, 1935, c. 837, § 9, 49 Stat. 1085.)

#### Chapter 7.—INTERNATIONAL BUREAUS, CONGRESSES, ETC.

§ 268a. **Same; limitation on salaries; traveling expenses.** The salaries of the American Commissioners shall not exceed \$5,000 each per annum: *Provided,* That traveling expenses of the commissioners, secretary, and necessary employees shall be allowed in accordance with the provisions of sections 821 to 831 of Title 5. (Mar. 22, 1935, c. 39, § 1, 49 Stat. 75.)

§ 273. **Pan American Institute of Geography and History; annual appropriation for membership.** To enable the United States to become a member of the Pan American Institute of Geography and History, there is hereby authorized to be appropriated annually the sum of \$10,000 for the payment of the quota of the United States. (Aug. 2, 1935, c. 430, § 1, 49 Stat. 512.)

§ 274. **International Council of Scientific Unions and Associated Unions; annual appropriation for membership.** There is hereby authorized to be appropriated, to be expended under the direction of the Secretary of State, in paying the annual share of the United States as an adhering member of the International Council of Scientific Unions and Associated Unions, including the International Astronomical Union, International Union of Chemistry, International Union of Geodesy and Geophysics, International Union of Mathematics, International Scientific Radio Union, International Union of Physics, and International Geographical Union, and such other international scientific unions as the Secretary of State may designate, such sum as may be necessary for the payment of such annual share, not to exceed \$9,000 in any one year. (Aug. 7, 1935, c. 454, 49 Stat. 540.)



## TITLE 24.—HOSPITALS, ASYLUMS, AND CEMETERIES

### Chapter 2.—THE SOLDIERS' HOME

§ 46a. Deposit of interest on funds; when expendable. Effective July 1, 1935, interest earned pursuant to law on funds of the United States Soldiers' Home deposited in the Treasury of the United States shall be credited to the trust fund "Soldiers' Home, Permanent Fund", and shall not be expendable except in consequence of an appropriation made by Congress. (Apr. 9, 1935, c. 54, Title II, § 1, 49 Stat 147)

### Chapter 4.—SAINT ELIZABETHS HOSPITAL

#### ESTABLISHMENT AND MANAGEMENT; PENSIONS, MONEYS, AND APPROPRIATIONS

§ 169. Disposition of money paid for care of patients.

Repeated, Act May 9, 1935, c 101, § 1, 49 Stat 215

### Chapter 5.—THE COLUMBIA INSTITUTION FOR THE DEAF

Page 173

### Chapter 7.—NATIONAL CEMETERIES

§ 281. Who may be buried in national cemetery; evidence of right. \* \* \* Persons who were members of the Cabinet of the President of the United States at any time during the period between April 6, 1917, and November 11, 1918, may be buried in any national cemetery: *Provided*, That the interment is without cost to the United States. (As amended June 13, 1935, c. 223, 49 Stat. 339.)

§ 290. Encroachment by railroad on rights of way.

Repeated, Act April 19, 1935, c 54, Title II, 49 Stat 145.  
"Feb 23, 1931, c 278" in citation in Code should be "Feb 23, 1931, c. 279"

### Chapter 8.—GORGAS HOSPITAL

§ 301. Ancon Hospital to be known as Gorgas Hospital.

"prior to March 4, 1928" in lines 6-7 should be "prior to March 24, 1928"



## TITLE 25.—INDIANS

### Chapter 7A.—DEVELOPMENT OF ARTS AND CRAFTS

Sec.

- 205 "Indian Arts and Crafts Board"; creation and composition, compensation.  
305a. Promotion of economic welfare through development of arts and crafts; powers of Board enumerated.  
305b. Rules and regulations; submission to Secretary of Interior  
305c. Appropriation  
305d. Counterfeiting trade mark; use of counterfeited or imitated trade mark; penalty.  
305e. Offering for sale without trade mark goods as Indian products; duty of district attorneys to prosecute.

§ 305. "Indian Arts and Crafts Board"; creation and composition; compensation. A board is hereby created in the Department of the Interior to be known as "Indian Arts and Crafts Board", and hereinafter referred to as the Board. The Board shall be composed of five commissioners, who shall be appointed by the Secretary of the Interior as soon as possible after August 27, 1935 and shall continue in office, two for a term of two years, one for a term of three years, and two for a term of four years from the date of their appointment, the term of each to be designated by the Secretary of the Interior, but their successors shall be appointed for a term of four years except that any person chosen to fill a vacancy shall be appointed for the unexpired term of the commissioner whom he succeeds. Both public officers and private citizens shall be eligible for membership on the Board. The Board shall elect one of the commissioners as chairman. One or two vacancies on the Board shall not impair the right of the remaining commissioners to exercise all the powers of the Board.

The commissioners shall serve without compensation: *Provided*, That each Commissioner shall be reimbursed for all actual expenses, including travel expenses, subsistence and office overhead, which the Board shall certify to have been incurred as properly incidental to the performance of his duties as a member of the Board. (Aug. 27, 1935, c. 748, § 1, 49 Stat. 891.)

§ 305a. Promotion of economic welfare through development of arts and crafts; powers of Board enumerated. It shall be the function and the duty of the Board to promote the economic welfare of the Indian tribes and the Indian wards of the Government through the development of Indian arts and crafts and the expansion of the market for the products of Indian art and craftsmanship. In the execution of this function the Board shall have the following powers: (a) To undertake market research to determine the best opportunity for the sale of various products; (b) to engage in technical research and give technical advice and assistance; (c) to engage in experimentation directly or through selected agencies; (d) to correlate and encourage the activities of the various governmental and private agencies in the field; (e) to offer assistance in the management of operating groups for the furtherance of specific projects; (f) to make recommendations to appropriate agencies for loans in furtherance of the production and sale of Indian products; (g) to create Government trade marks of genuineness and quality for Indian products and the products of particular Indian tribes or groups; to establish standards and regulations for the use of such trade marks; to license corporations, associations, or individuals to use them; and to charge a fee for their use; to register them in the United States Patent Office without charge; (h) to employ executive officers, including a general manager, and such other permanent and temporary per-

sonnel as may be found necessary, and prescribe the authorities, duties, responsibilities, and tenure and fix the compensation of such officers and other employees: *Provided*, That sections 661 to 674 of Title 5 shall be applicable to all permanent employees except executive officers, and that all employees other than executive officers shall be appointed in accordance with the civil-service laws from lists of eligibles to be supplied by the Civil Service Commission; (i) as a Government agency to negotiate and execute in its own name contracts with operating groups to supply management, personnel, and supervision at cost, and to negotiate and execute in its own name such other contracts and to carry on such other business as may be necessary for the accomplishment of the duties and purposes of the Board: *Provided*, That nothing in the foregoing enumeration of powers shall be construed to authorize the Board to borrow or lend money or to deal in Indian goods. (Aug. 27, 1935, c. 748, § 2, 49 Stat. 891.)

§ 305b. Rules and regulations; submission to Secretary of Interior. The Board shall prescribe from time to time rules and regulations governing the conduct of its business and containing such provisions as it may deem appropriate for the effective execution and administration of the powers conferred upon it by this chapter: *Provided*, That before prescribing any procedure for the disbursement of money the Board shall advise and consult with the General Accounting Office: *Provided further*, That all rules and regulations proposed by the Board shall be submitted to the Secretary of the Interior and shall become effective upon his approval. (Aug. 27, 1935, c. 748, § 3, 49 Stat. 892.)

§ 305c. Appropriation. There is hereby authorized to be appropriated out of any sums in the Treasury not otherwise appropriated such sums as may be necessary to defray the expenses of the Board and carry out the purposes and provisions of this chapter. All income derived by the Board from any source shall be covered into the Treasury of the United States and shall constitute a special fund which is hereby appropriated and made available until expended for carrying out the purposes and provisions of this chapter. Out of the funds available to it at any time the Board may authorize such expenditures, consistent with the provisions of this chapter, as it may determine to be necessary for the accomplishment of the purposes and objectives of this chapter. (Aug. 27, 1935, c. 748, § 4, 49 Stat. 892.)

§ 305d. Counterfeiting trade mark; use of counterfeited or imitated trade mark; penalty. Any person who shall counterfeit or colorably imitate any Government trade mark used or devised by the Board as provided in section 305a of this chapter, or shall, except as authorized by the Board, affix any such Government trade mark, or shall knowingly, willfully, and corruptly affix any reproduction, counterfeit, copy, or colorable imitation thereof upon any products, Indian or otherwise, or to any labels, signs, prints, packages, wrappers, or receptacles intended to be used upon or in connection with the sale of such products, or any person who shall knowingly make any false statement for the purpose of obtaining the use of any such Government trade mark, shall be guilty of a misdemeanor, and upon conviction thereof shall be enjoined from further carrying on the act or acts complained of and shall be subject to a fine not exceeding \$2,000, or imprisonment not exceeding six months, or both such fine and imprisonment. (Aug. 27, 1935, c. 748, § 5, 49 Stat. 892.)

§ 305e. Offering for sale without trade mark goods as Indian products; penalty; duty of district attorneys to prosecute. Any person who shall willfully offer or display for sale any goods, with or without any Government trade mark, as Indian products or Indian products of a particular Indian tribe or group, resident within the United States or the Territory of Alaska, when such person knows such goods are not Indian products or are not Indian products of the particular Indian tribe or group, shall be guilty of a misdemeanor and be subject to a fine not exceeding \$2,000 or imprisonment not exceeding six months, or both such fine and imprisonment.

It shall be the duty of each district attorney, to whom the Board shall report in writing any violation of the provisions of this section which has occurred within his jurisdiction, to cause appropriate proceedings to be commenced and prosecuted in the proper courts of the United States for the enforcement of the penalties herein provided. (Aug. 27, 1935, c. 748, § 6, 49 Stat. 593.)

#### Chapter 11.—IRRIGATION OF ALLOTTED LANDS

§ 387. Basis of apportionment of costs of irrigation projects including maintenance; liens.

Repeated, Act May 9, 1935, c. 101, § 1, 49 Stat. 186.

#### Chapter 14.—MISCELLANEOUS

#### PROTECTION OF INDIANS AND CONSERVATION OF RESOURCES

§ 475a. Same; offsets of gratuities. In all suits pending on Aug. 12, 1935 in the Court of Claims by an Indian tribe or band which have not been tried or submitted, and in any suit hereafter filed in the Court of Claims by any such tribe or band, the Court of Claims is hereby directed to consider and to offset against any amount found due the said tribe or band all sums expended gratuitously by the United States for the benefit of the said tribe or band; and in all cases now pending or hereafter filed in the Court of Claims in which an Indian tribe or band is party plaintiff, wherein the duty of the court is merely to report its findings of fact and conclusions to Congress, the said Court of Claims is hereby directed to include in its report a statement of the amount of money which has been expended by the United States gratuitously for the benefit of the said tribe or band: *Provided*, That expenditures made prior to the date of the law, treaty, agreement, or Executive order under which the claims arise shall not be offset against the claims or claim asserted; and expenditures under sections 461 to 479 of this title, except expenditures under appropriations made pursuant to section 465,

shall not be charged as offsets against any claim on behalf of an Indian tribe or tribes now pending in the Court of Claims or hereafter filed: *Provided further*, That funds appropriated and expended from tribal funds shall not be construed as gratuities; and this section shall not be deemed to amend or affect the various Acts granting jurisdiction to the Court of Claims to hear and determine the claims listed on page 678 of the hearings before the subcommittee of the House Committee on Appropriations on the second deficiency appropriation bill for the fiscal year 1935: *And provided further*, That no expenditure under any emergency appropriation or allotment made subsequently to March 4, 1933, and generally applicable throughout the United States for relief in stricken agricultural areas, relief from distress caused by unemployment and conditions resulting therefrom, the prosecution of public works and public projects for the relief of unemployment or to increase employment, and for work relief (including the civil-works program) shall be considered in connection with the operation of this section. (Aug. 12, 1935, c. 508, § 2, 49 Stat. 596.)

#### § 478. Acceptance of sections 461 to 479 optional.

The time for holding an election under this section was extended to June 18, 1936, by Act June 15, 1935, c. 260, § 2, 49 Stat. 378.

Act June 15, 1935, c. 260, § 3, 49 Stat. 378 provided that the periods of trust or the restrictions on alienation of Indian lands should be extended to Dec. 31, 1936, in case of a vote against the application of sections 461 to 479.

§ 478a. Procedure. In any election heretofore or hereafter held under sections 461 to 479 of this title, on the question of excluding a reservation from the application of the said sections or on the question of adopting a constitution and bylaws or amendments thereto or on the question of ratifying a charter, the vote of a majority of those actually voting shall be necessary and sufficient to effectuate such exclusion, adoption, or ratification, as the case may be: *Provided, however*, That in each instance the total vote cast shall not be less than 30 per centum of those entitled to vote. (June 15, 1935, c. 260, § 1, 49 Stat. 378.)

§ 478b. Laws, treaties and rights unaffected by passage of sections 461 to 479. All laws, general and special, and all treaty provisions affecting any Indian reservation which has voted or may vote to exclude itself from the application of sections 461 to 479 of this title, shall be deemed to have been continuously effective as to such reservation, notwithstanding the passage of said sections. Nothing in sections 461 to 479 of this title, shall be construed to abrogate or impair any rights guaranteed under any existing treaty with any Indian tribe, where such tribe voted not to exclude itself from the application of said sections. (June 15, 1935, c. 260, § 4, 49 Stat. 378.)



## TITLE 26.—INTERNAL REVENUE

### Chapter 1.—INCOME TAX

#### SUBCHAPTER B—GENERAL PROVISIONS

##### § 12. Surtax on individuals.

\*            \*            \*            \*

##### (b) Rates of surtax.

\*            \*            \*            \*

\$7,700 upon surtax net incomes of \$50,000, and upon surtax net incomes in excess of \$50,000 and not in excess of \$56,000, 31 per centum in addition of such excess.

\$9,560 upon surtax net incomes of \$56,000; and upon surtax net incomes in excess of \$56,000 and not in excess of \$62,000, 35 per centum in addition of such excess.

\$11,660 upon surtax net incomes of \$62,000; and upon surtax net incomes in excess of \$62,000 and not in excess of \$68,000, 39 per centum in addition of such excess.

\$14,000 upon surtax net incomes of \$68,000; and upon surtax net incomes in excess of \$68,000 and not in excess of \$74,000, 43 per centum in addition of such excess.

\$16,580 upon surtax net incomes of \$74,000; and upon surtax net incomes in excess of \$74,000 and not in excess of \$80,000, 47 per centum in addition of such excess.

\$19,400 upon surtax net incomes of \$80,000; and upon surtax net incomes in excess of \$80,000 and not in excess of \$90,000, 51 per centum in addition of such excess.

\$24,500 upon surtax net incomes of \$90,000; and upon surtax net incomes in excess of \$90,000 and not in excess of \$100,000, 55 per centum in addition of such excess.

\$30,000 upon surtax net incomes of \$100,000; and upon surtax net incomes in excess of \$100,000 and not in excess of \$150,000, 58 per centum in addition of such excess.

\$59,000 upon surtax net incomes of \$150,000; and upon surtax net incomes in excess of \$150,000 and not in excess of \$200,000, 60 per centum in addition of such excess.

\$89,000 upon surtax net incomes of \$200,000; and upon surtax net incomes in excess of \$200,000 and not in excess of \$250,000, 62 per centum in addition of such excess.

\$120,000 upon surtax net incomes of \$250,000; and upon surtax net incomes in excess of \$250,000 and not in excess of \$300,000, 64 per centum in addition of such excess.

\$152,000 upon surtax net incomes of \$300,000; and upon surtax net incomes in excess of \$300,000 and not in excess of \$400,000, 66 per centum in addition of such excess.

\$218,000 upon surtax net incomes of \$400,000; and upon surtax net incomes in excess of \$400,000 and not in excess of \$500,000, 68 per centum in addition of such excess.

\$286,000 upon surtax net incomes of \$500,000; and upon surtax net incomes in excess of \$500,000 and not in excess of \$750,000, 70 per centum in addition of such excess.

\$461,000 upon surtax net incomes of \$750,000; and upon surtax net incomes in excess of \$750,000 and not in excess of \$1,000,000, 72 per centum in addition of such excess.

\$641,000 upon surtax net incomes of \$1,000,000; and upon surtax net incomes in excess of \$1,000,000 and

not in excess of \$2,000,000, 73 per centum in addition of such excess.

\$1,371,000 upon surtax net incomes of \$2,000,000; and upon surtax net incomes in excess of \$2,000,000 and not in excess of \$5,000,000, 74 per centum in addition of such excess.

\$3,591,000 upon surtax net incomes of \$5,000,000; and upon surtax net incomes in excess of \$5,000,000, 75 per centum in addition of such excess. (As amended Aug. 30, 1935, 6:00 p. m., c. 829, § 101, 49 Stat. 1014.)

Section 107 of Act August 30, 1935, c. 829, cited to the text, provided that the amendment to this section by § 101 of such Act should apply only in the case of taxable years beginning after December 31, 1935.

§ 13. Tax on corporations.—(a) Rate of tax. There shall be levied, collected, and paid for each taxable year upon the net income (in excess of the credit against net income provided in section 26) of every corporation, a tax as follows:

Upon net incomes not in excess of \$2,000, 12½ per centum.

\$250 upon net incomes of \$2,000; and upon net incomes in excess of \$2,000 and not in excess of \$15,000, 13 per centum in addition of such excess.

\$1,940 upon net incomes of \$15,000; and upon net incomes in excess of \$15,000 and not in excess of \$40,000, 14 per centum in addition of such excess.

\$5,440 upon net incomes of \$40,000; and upon net incomes in excess of \$40,000, 15 per centum in addition of such excess. (As amended Aug. 30, 1935, 6:00 p. m., c. 829, § 102 (a), 49 Stat. 1015.)

\*            \*            \*            \*

Section 107 of Act August 30, 1935, c. 829, cited to the text, provided that the amendment to this section by section 102 of such Act should apply only in the case of taxable years beginning after December 31, 1935.

##### § 23. Deductions from gross income.

\*            \*            \*            \*

(p) Dividends received by corporations. In the case of a corporation, 90 per centum of the amount received as dividends from a domestic corporation which is subject to taxation under this title. The deduction allowed by this subsection shall not be allowed in respect of dividends received from a corporation organized under Chapter 4, Title 15, or from a corporation which under section 251 is taxable only on its gross income from sources within the United States by reason of its receiving a large percentage of its gross income from sources within a possession of the United States. (As amended Aug. 30, 1935, 6:00 p. m., c. 829, § 102 (h), 49 Stat. 1016.)

\*            \*            \*            \*

(r) Charitable and other contributions by corporations. In the case of a corporation, contributions or gifts made within the taxable year to or for the use of a domestic corporation, or domestic trust, or domestic community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes or the prevention of cruelty to children (but in the case of contributions or gifts to a trust, chest, fund, or foundation, only if such contributions or gifts are to be used within the United States exclusively for such purposes), no part of the net earnings of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation; to an amount which does not exceed 5 per centum of the taxpayer's net income as computed without the benefit of this subsection. Such contributions or gifts shall be allowable as deductions

only if verified under rules and regulations prescribed by the Commissioner, with the approval of the Secretary. (Aug. 30, 1935, 6:00 p. m., c. 829, § 102 (c), 49 Stat. 1015.)

Section 107 of Act August 30, 1935, c. 829, cited to the text, provided that the amendment to this section by section 102 of such Act should apply only in the case of taxable years beginning after December 31, 1935.

**§ 55. Publicity of Returns—(a) Inspection generally; regulations.** Returns upon which the tax has been determined by the Commissioner shall constitute public records; but, except as hereinafter provided in this section, they shall be open to inspection only upon order of the President and under rules and regulations prescribed by the Secretary and approved by the President. Whenever a return is open to the inspection of any person a certified copy thereof shall, upon request, be furnished to such person under rules and regulations prescribed by the Commissioner with the approval of the Secretary. The Commissioner may prescribe a reasonable fee for furnishing such copy. All returns made under this chapter shall constitute public records and shall be open to public examination and inspection to such extent as shall be authorized in rules and regulations promulgated by the President.

**(b) Who may inspect; use of information; penalty.**

(1) All income returns filed under this chapter for any taxable year beginning after December 31, 1934 (or copies thereof, if so prescribed by regulations made under this subsection), shall be open to inspection by any official, body, or commission, lawfully charged with the administration of any State tax law, if the inspection is for the purpose of such administration or for the purpose of obtaining information to be furnished to local taxing authorities as provided in paragraph (2) of this subsection. The inspection shall be permitted only upon written request of the governor of such State, designating the representative of such official, body, or commission to make the inspection on behalf of such official, body, or commission. The inspection shall be made in such manner, and at such times and places, as shall be prescribed by regulations made by the Commissioner with the approval of the Secretary.

(2) Any information thus secured by any official, body, or commission of any State may be used only for the administration of the tax laws of such State, except that upon written request of the governor of such State any such information may be furnished to any official, body, or commission of any political subdivision of such State, lawfully charged with the administration of the tax laws of such political subdivision, but may be furnished only for the purpose of, and may be used only for, the administration of such tax laws. Any officer, employee, or agent of any State or political subdivision, who divulges (except as authorized in this subsection, or when called upon to testify in any judicial or administrative proceeding to which the State or political subdivision, or such State or local official, body, or commission, as such, is a party) any information acquired by him through an inspection permitted him or another under this subsection shall be guilty of a misdemeanor and shall upon conviction be punished by a fine of not more than \$1,000, or by imprisonment for not more than one year, or both. (As amended Apr. 19, 1935, c. 74, 49 Stat. 158.)

**SUBCHAPTER C—SUPPLEMENTAL PROVISIONS**

**§ 112. Recognition of gain or loss.**

**(b) Exchanges solely in kind—**

(6) **Exchange in liquidation.** No gain or loss shall be recognized upon the receipt by a corporation of property (other than money) distributed in complete liquidation of another corporation, if the corporation receiving such property on such exchange was on August 30, 1935 and has continued to be at all times until the exchange, in control of such

other corporation. As used in this paragraph "complete liquidation" includes any one of a series of distributions by a corporation in complete cancellation or redemption of all its stock in accordance with a plan of liquidation under which the transfer of the property under the liquidation is to be completed within a time specified in the plan, not exceeding five years from the close of the taxable year during which is made the first of the series of distributions under the plan. If such transfer of property is not completed within the taxable year the Commissioner may require of the taxpayer, as a condition to the non-recognition of gain under this paragraph, such bond, or waiver of the statute of limitations on assessment and collection, or both, as he may deem necessary to insure the assessment and collection of the tax if the transfer of the property is not completed in accordance with the plan. This paragraph shall not apply to any liquidation if any distribution in pursuance thereof has been made before August 30, 1935.

**(c) Gain from exchanges not solely in kind.** (1) If an exchange would be within the provisions of subsection (b) (1), (2), (3), (5), or (6) of this section if it were not for the fact that the property received in exchange consists not only of property permitted by such paragraph to be received without the recognition of gain, but also of other property or money, then the gain, if any, to the recipient shall be recognized, but in an amount not in excess of the sum of such money and the fair market value of such other property.

**(e) Loss from exchanges not solely in kind.** If an exchange would be within the provisions of subsection (b) (1) to (6), inclusive, of this section if it were not for the fact that the property received in exchange consists not only of property permitted by such paragraph to be received without the recognition of gain or loss, but also of other property or money, then no loss from the exchange shall be recognized.

**(i) Foreign corporations.** In determining the extent to which gain shall be recognized in the case of any of the exchanges (made after May 10, 1934) described in subsection (b) (3), (4), (5), or (6), or described in so much of subsection (c) as refers to subsection (b) (3), (5), or (6), or described in subsection (d), a foreign corporation shall not be considered as a corporation unless, prior to such exchange, it has been established to the satisfaction of the Commissioner that such exchange is not in pursuance of a plan having as one of its principal purposes, the avoidance of Federal income taxes. (As amended Aug. 30, 1935, 6:00 p. m., c. 829, § 110, 49 Stat. 1020.)

Subsection (e) of section 110 of Act August 30, 1935, c. 829, cited to the text, provided that the amendments of this section by subsections (a) to (d) of such Act should apply only in the case of taxable years beginning after December 31, 1935.

**§ 116. Exclusions from gross income.**

**(h) Compensation of employees of foreign governments.** Wages, fees, or salary of an employee of a foreign government (including a consular or other officer, or a nondiplomatic representative) received as compensation for official services to such government—

(1) If such employee is not a citizen of the United States; and

(2) If the services are of a character similar to those performed by employees of the Government of the United States in foreign countries; and

(3) If the foreign government whose employee is claiming exemption grants an equivalent exemption to employees of the Government of the United States performing similar services in such foreign country. The Secretary of State shall certify to the Secretary of the Treasury the names of the foreign countries

which grant an equivalent exemption to the employees of the Government of the United States performing services in such foreign countries, and the character of the services performed by employees of the Government of the United States in foreign countries. (Aug. 27, 1935, c. 767, § 1, 49 Stat. 908.)

Section 2 of Act August 27, 1935, c. 767, 49 Stat. 908, cited to the text, provided that subsection (b) of this section "shall be retroactively applied in computing income under the provisions of the Revenue Act of 1934 and prior revenue Acts, or any of such Acts as amended, subject to the statutory period of limitations properly applicable to such Acts."

§ 121. Deduction of dividends paid on certain preferred stock of certain corporations. In computing the net income, for any taxable year beginning after December 31, 1934, of any national banking association, or of any bank or trust company organized under the laws of any State, Territory, possession of the United States, or the Canal Zone, or of any other banking corporation engaged in the business of industrial banking and under the supervision of a State banking department or of the Comptroller of the Currency, or of any incorporated domestic insurance company, there shall be allowed as a deduction from gross income, in addition to deductions otherwise provided for in this title, any dividend (not including any distribution in liquidation) paid, within such taxable year, to the United States or to any instrumentality thereof exempt from Federal income taxes, on the preferred stock of the corporation owned by the United States or such instrumentality. (May 10, 1934, 11:40 a. m., c. 277, § 121, as added Aug. 27, 1935, c. 767, § 3, 49 Stat. 908.)

#### § 141. Consolidated returns of corporations.

(c) Computation and payment of tax. In any case in which a consolidated return is made the tax shall be determined, computed, assessed, collected, and adjusted in accordance with the regulations under subsection (b) (or, in case such regulations are not prescribed prior to the making of the return, then the regulations prescribed under section 141 (b) of the Revenue Act of 1932 insofar as not inconsistent with this chapter) prescribed prior to the date on which such return is made; except that the rate of tax shall be 15% per centum, in lieu of the rates prescribed by section 13 (a), but the tax at such rate of 15% per centum shall be considered as imposed by section 13 (a). (As amended Aug. 30, 1935, 6:00 p. m., c. 829, § 102 (b), 49 Stat. 1015.)

Section 107 of Act August 30, 1935, c. 829, cited to the text, provided that the amendment to this section by section 102 of such Act should apply only in the case of taxable years beginning after December 31, 1935.

§ 143. Withholding of tax at source—(a) Tax free covenant bonds—(1) Requirement of withholding. \* \* \* in whole or in part of nonresident aliens (B) in the case of such a foreign corporation, 13% per centum with respect to all payments of interest made before January 1, 1936, and 15 per centum with respect to all payments of interest made after December 31, 1935, and (C) 2 per centum in the case of other individuals and partnerships: *Provided further*, That if the owners of such obligations are not known to the withholding agent the Commissioner may authorize such deduction and withholding to be at the rate of 2 per centum, or, if the liability assumed by the obligor does not exceed 2 per centum of the interest, then at the rate of 4 per centum. (As amended Aug. 30, 1935, 6:00 p. m., c. 829, § 102 (g), 49 Stat. 1015.)

§ 144. Payment of corporation income tax at source. In the case of foreign corporations subject to taxation under this chapter not engaged in trade or business within the United States and not having any office or place of business therein, there shall be deducted and withheld at the source in the same manner and upon the same items of income as is provided in section 143 a tax equal to 13% per centum thereof with respect to all payments of income made before January 1,

1936, and equal to 15 per centum thereof with respect to all payments of income made after December 31, 1935, and such tax shall be returned and paid in the same manner and subject to the same conditions as provided in that section: *Provided*, That in the case of interest described in subsection (a) of that section (relating to tax-free covenant bonds) the deduction and withholding shall be at the rate specified in such subsection: *Provided further*, That in the case of the payment, after December 31, 1935, of dividends of the class with respect to which a deduction is allowed by section 23 (p), the deduction and withholding provided for in this section shall also apply to 10 per centum of the amount of the payment: *Provided further*, That the Commissioner, under rules and regulations prescribed by him with the approval of the Secretary, may authorize withholding under this section and section 143 (a) (1) (B), in cases where the taxpayer has a taxable year ending on any other date than December 31, at the rate of 13% per centum (and, in the case of payments of dividends with respect to which withholding is required, may authorize such payments to be made without withholding) until the beginning of the taxpayer's first taxable year which begins after December 31, 1935. (As amended Aug. 30, 1935, 6:00 p. m., c. 829, § 102 (f), (i), 49 Stat. 1015.)

#### § 201. Tax on life insurance companies.

##### (b) Rate of tax.

(1) In the case of a domestic life insurance company, a tax at the rates specified in section 13 upon the amount of its net income in excess of the credit provided in subsection (c) of this section;

(2) In the case of a foreign life insurance company, a tax at the rates specified in section 13 upon the amount of its net income from sources within the United States in excess of the credit provided in subsection (c) of this section. (As amended Aug. 30, 1935, 6:00 p. m., c. 829, § 103, 49 Stat. 1017.)

Section 107 of Act August 30, 1935, c. 829, cited to the text, provided that the amendment to this section by § 103 of such Act, should apply only in the case of taxable years beginning after December 31, 1935.

#### § 204. Insurance companies other than life or mutual—(a) Imposition of tax.

(1) In the case of such a domestic insurance company, a tax at the rates specified in section 13 upon the amount of its net income in excess of the credit provided in subsection (f) of this section;

(2) In the case of such a foreign insurance company, a tax at the rates specified in section 13 upon the amount of its net income from sources within the United States in excess of the credit provided in subsection (f) of this section. (As amended Aug. 30, 1935, 6:00 p. m., c. 829, § 104, 49 Stat. 1017.)

##### (c) Deductions allowed.

(10) Charitable, and so forth, contributions, as provided in section 23 (r). (As amended Aug. 30, 1935, 6:00 p. m., c. 829, § 102 (d), 49 Stat. 1015.)

Section 107 of Act August 30, 1935, c. 829, cited to the text, provided that the amendments to this section by sections 102 and 104 of such Act should apply only in case of the taxable years beginning after December 31, 1935.

#### § 232. Deductions—(a) In general. \* \* \*

(b) Charitable, and so forth, contributions. The so-called "charitable contribution" deduction allowed by section 23 (r) shall be allowed whether or not connected with income from sources within the United States. (As amended Aug. 30, 1935, 6:00 p. m., c. 829, § 102 (e), 49 Stat. 1015.)

The amendment by the act of 1935, cited to the text, inserted "(a) In general" at the beginning of the section and added a new subsection (b) as set out above.

Section 107 of Act August 30, 1935, c. 829, cited to the text, provided that the amendment to this section by section 102 of such Act should apply only in the case of taxable years beginning after December 31, 1935.

**§ 261. Credit against net income.—(a) Allowance of credit.** For the purpose only of the taxes imposed by sections 13 and 342 there shall be allowed, in the case of a corporation organized under chapter 4 of Title 15, in addition to the credit provided in section 26, a credit against the net income of an amount equal to the proportion of the net income derived from sources within China (determined in a similar manner to that provided in section 119) which the par value of the shares of stock of the corporation owned on the last day of the taxable year by (1) persons resident in China, the United States, or possessions of the United States, and (2) individual citizens of the United States or China wherever resident, bears to the par value of the whole number of shares of stock of the corporation outstanding on such date: *Provided*, That in no case shall the diminution, by reason of such credit, of the tax imposed by section 13 (computed without regard to this section) exceed the amount of the special dividend certified under subsection (b) of this section; and in no case shall the diminution, by reason of such credit, of the tax imposed by section 342 (computed without regard to this section) exceed the amount by which such special dividend exceeds the diminution permitted by this section in the tax imposed by such section 13. (As amended Aug. 30, 1935, 6:00 p. m., c. 829, § 109, 49 Stat. 1019.)

Subsection (b) of section 108 of Act August 30, 1935, c. 829, cited to the text, provided that the amendment to subsection (a) of this section by subsection (a) of such Act should apply, with respect to the tax imposed by section 13 of this title, only in the case of taxable years beginning after December 31, 1935.

#### SUBCHAPTER D—ADDITIONAL INCOME TAXES

**§ 331. Surtax on personal holding companies.—(a) Imposition of tax.** There shall be levied, collected, and paid, for each taxable year, upon the undistributed adjusted net income of every personal holding company a surtax equal to the sum of the following:

(1) 20 per centum of the amount thereof not in excess of \$2,000; plus

(2) 30 per centum of the amount thereof in excess of \$2,000 and not in excess of \$100,000; plus

(3) 40 per centum of the amount thereof in excess of \$100,000 and not in excess of \$500,000; plus

(4) 50 per centum of the amount thereof in excess of \$500,000 and not in excess of \$1,000,000; plus

(5) 60 per centum of the amount thereof in excess of \$1,000,000. (As amended Aug. 30, 1935, 6:00 p. m., c. 829, § 109, 49 Stat. 1020.)

**(b) Definitions.** (2) \* \* \*

(c) Dividends paid during the taxable year, and distributions (not in complete or partial liquidation and not a "dividend" as defined in section 115) made during the taxable year out of earnings or profits of such year. (As amended Aug. 30, 1935, 6:00 p. m., c. 829, § 109, 49 Stat. 1020.)

Subsection (c) of section 109 of Act August 30, 1935, cited to the text, provided that the amendment of this section by subsections (a) and (b) of such Act should apply only in the case of taxable years beginning after December 31, 1935.

#### SUBCHAPTER E—EXCESS PROFITS TAX

**§ 342. Same; tax after June 30, 1935.—(a) Rate.** There is imposed upon the net income of every corporation for each income-tax taxable year ending after the close of the first year in respect of which it is taxable under section 1358a, an excess-profits tax equal to the sum of the following:

6 per centum of such portion of its net income for such income-tax taxable year as is in excess of 10

per centum and not in excess of 15 per centum of the adjusted declared value;

12 per centum of such portion of its net income for such income-tax taxable year as is in excess of 15 per centum of the adjusted declared value.

**(b) Adjusted declared value.** The adjusted declared value shall be determined as provided in section 1358a as of the close of the preceding income-tax taxable year (or as of the date of organization if it had no preceding income-tax taxable year). If the income-tax taxable year in respect of which the tax under this section is imposed is a period of less than 12 months, such adjusted declared value shall be reduced to an amount which bears the same ratio thereto as the number of months in the period bears to 12 months. For the purposes of this section the net income shall be the same as the net income for income tax purposes for the year in respect of which the tax under this section is imposed, except that there shall be deducted the amount of income tax imposed for such year by section 13.

**(c) Other laws applicable.** All provisions of law (including penalties) applicable in respect of the taxes imposed by sections 1–322 shall, insofar as not inconsistent with this section, be applicable in respect of the tax imposed by this section, except that the provisions of section 131 shall not be applicable.

**(d) Application of former tax.** The excess-profits tax imposed by section 341 shall not apply to any taxpayer with respect to any income-tax taxable year ending after June 30, 1936. (Aug. 30, 1935, 6:00 p. m., c. 829, § 106, 49 Stat. 1019.)

### Chapter 3.—ESTATE TAX

#### SUBCHAPTER A—BASIC ESTATE TAX

##### § 411. Gross estate.

\* \* \* \* \*

**(j) Valuation of estate.** If the executor so elects upon his return (if filed within the time prescribed by law or prescribed by the Commissioner in pursuance of law), the value of the gross estate shall be determined by valuing all the property included therein on the date of the decedent's death as of the date one year after the decedent's death, except that (1) property included in the gross estate on the date of death and, within one year after the decedent's death, distributed by the executor (or, in the case of property included in the gross estate under subdivision (c), (d), or (f) of this section, distributed by the trustee under the instrument of transfer), or sold, exchanged, or otherwise disposed of, shall be included at its value as of the time of such distribution, sale, exchange, or other disposition, whichever first occurs, instead of its value as of the date one year after the decedent's death, and (2) any interest or estate which is affected by mere lapse of time shall be included at its value as of the time of death (instead of the later date) with adjustment for any difference in its value as of the later date not due to mere lapse of time. No deduction under this title of any item shall be allowed if allowance for such item is in effect given by the valuation under this subdivision. Wherever in any other subdivision or section of this chapter reference is made to the value of property at the time of the decedent's death, such reference shall be deemed to refer to the value of such property used in determining the value of the gross estate. In case of an election made by the executor under this subdivision, then for the purposes of the deduction under section 412 (d) or section 461 (a) (3), any bequest, legacy, devise, or transfer enumerated therein shall be valued as of the date of decedent's death with adjustment for any difference in value (not due to mere lapse of time or the occurrence or nonoccurrence of a contingency) of the property as of the date one year after the

decedent's death (substituting the date of sale or exchange in the case of property sold or exchanged during such one-year period). (Aug. 30, 1935, 6:00 p. m., c. 829, § 202 (a), 49 Stat. 1022.)

Subsection (b) of section 202 of Act August 30, 1935, c. 829, cited to the text, provided that the amendment by subsection (a) of such Act should be effective only with respect to transfers of estates of decedents dying after August 30, 1935.

**§ 422. Payment of tax—(a) Time of payment—(1) General rule.** The tax imposed by this subchapter shall be due and payable fifteen months after the decedent's death, and shall be paid by the executor to the collector. (As amended Aug. 30, 1935, 6:00 p. m., c. 829, § 203 (a), 49 Stat. 1023.)

Subsection (c) of section 203 of Act August 30, 1935, c. 829, cited to the text, provided that the amendment of this section by subsection (a) of such Act should be effective only with respect to transfers of estates of decedents dying after August 30, 1935.

**§ 490. Interest on extended payments—(a) Tax shown on return.** If the time for the payment of any part of the amount determined by the executor as the tax is extended as provided in section 422 (a) (2) there shall be collected, as a part of such amount, interest thereon at the rate of 6 per centum per annum from the expiration of three months after the due date of the tax to the expiration of the period of the extension. (As amended Aug. 30, 1935, c. 829, § 203 (b), 49 Stat. 1023.)

Subsection (a) of this section was amended by Act August 30, 1935, c. 829, § 203 (b), 49 Stat. 1023, by striking out the words "six months" and substituting in lieu thereof the words "three months." Subsection (c) of the amending section provided that the amendment should be effective only with respect to transfers of estates of decedents dying after August 30, 1935.

## SUBCHAPTER B—ADDITIONAL ESTATE TAX

### § 535. Rate of tax.

\* \* \* \* \*

(b) The tentative tax referred to in subsection (a) (1) of this section shall equal the sum of the following percentages of the value of the net estate:

Upon net estates not in excess of \$10,000, 2 per centum.

\$200 upon net estates of \$10,000; and upon net estates in excess of \$10,000 and not in excess of \$20,000, 4 per centum in addition of such excess.

\$600 upon net estates of \$20,000; and upon net estates in excess of \$20,000 and not in excess of \$30,000, 6 per centum in addition of such excess.

\$1,200 upon net estates of \$30,000; and upon net estates in excess of \$30,000 and not in excess of \$40,000, 8 per centum in addition of such excess.

\$2,000 upon net estates of \$40,000; and upon net estates in excess of \$40,000 and not in excess of \$50,000, 10 per centum in addition of such excess.

\$3,000 upon net estates of \$50,000; and upon net estates in excess of \$50,000 and not in excess of \$70,000, 12 per centum in addition of such excess.

\$5,400 upon net estates of \$70,000; and upon net estates in excess of \$70,000 and not in excess of \$100,000, 14 per centum in addition of such excess.

\$9,600 upon net estates of \$100,000; and upon net estates in excess of \$100,000 and not in excess of \$200,000, 17 per centum in addition of such excess.

\$26,600 upon net estates of \$200,000; and upon net estates in excess of \$200,000 and not in excess of \$400,000, 20 per centum in addition of such excess.

\$66,600 upon net estates of \$400,000; and upon net estates in excess of \$400,000 and not in excess of \$600,000, 23 per centum in addition of such excess.

\$112,600 upon net estates of \$600,000; and upon net estates in excess of \$600,000 and not in excess of \$800,000, 26 per centum in addition of such excess.

\$164,600 upon net estates of \$800,000; and upon net estates in excess of \$800,000 and not in excess of \$1,000,000, 29 per centum in addition of such excess.

\$222,600 upon net estates of \$1,000,000; and upon net estates in excess of \$1,000,000 and not in excess of \$1,500,000, 32 per centum in addition of such excess.

\$382,600 upon net estates of \$1,500,000; and upon net estates in excess of \$1,500,000 and not in excess of \$2,000,000, 35 per centum in addition of such excess.

\$557,600 upon net estates of \$2,000,000; and upon net estates in excess of \$2,000,000 and not in excess of \$2,500,000, 38 per centum in addition of such excess.

\$747,600 upon net estates of \$2,500,000; and upon net estates in excess of \$2,500,000 and not in excess of \$3,000,000, 41 per centum in addition of such excess.

\$952,600 upon net estates of \$3,000,000; and upon net estates in excess of \$3,000,000 and not in excess of \$3,500,000, 44 per centum in addition of such excess.

\$1,172,600 upon net estates of \$3,500,000; and upon net estates in excess of \$3,500,000 and not in excess of \$4,000,000, 47 per centum in addition of such excess.

\$1,407,600 upon net estates of \$4,000,000; and upon net estates in excess of \$4,000,000 and not in excess of \$4,500,000, 50 per centum in addition of such excess.

\$1,657,600 upon net estates of \$4,500,000; and upon net estates in excess of \$4,500,000 and not in excess of \$5,000,000, 53 per centum in addition of such excess.

\$1,922,600 upon net estates of \$5,000,000; and upon net estates in excess of \$5,000,000 and not in excess of \$6,000,000, 56 per centum in addition of such excess.

\$2,482,600 upon net estates of \$6,000,000; and upon net estates in excess of \$6,000,000 and not in excess of \$7,000,000, 59 per centum in addition of such excess.

\$3,072,600 upon net estates of \$7,000,000; and upon net estates in excess of \$7,000,000 and not in excess of \$8,000,000, 61 per centum in addition of such excess.

\$3,682,600 upon net estates of \$8,000,000; and upon net estates in excess of \$8,000,000 and not in excess of \$9,000,000, 63 per centum in addition of such excess.

\$4,312,600 upon net estates of \$9,000,000; and upon net estates in excess of \$9,000,000 and not in excess of \$10,000,000, 65 per centum in addition of such excess.

\$4,962,600 upon net estates of \$10,000,000; and upon net estates in excess of \$10,000,000 and not in excess of \$20,000,000, 67 per centum in addition of such excess.

\$11,662,600 upon net estates of \$20,000,000; and upon net estates in excess of \$20,000,000 and not in excess of \$50,000,000, 69 per centum in addition of such excess.

\$32,362,600 upon net estates of \$50,000,000; and upon net estates in excess of \$50,000,000, 70 per centum in addition of such excess. (As amended Aug. 30, 1935, 6:00 p. m., c. 829, § 201 (a), 49 Stat. 1022.)

(c) For the purposes of this section the value of the net estate shall be determined as provided in subchapter A, except that in lieu of the exemption of \$100,000 provided in section 412 (a), the exemption shall be \$40,000. (As amended Aug. 30, 1935, 6:00 p. m., c. 829, § 201 (b), 49 Stat. 1021.)

Subsection (d) of section 201 of Act August 30, 1935, c. 829, cited to the text, provided that the amendments to this section by subsections (a) and (b) of such Act should be effective only with respect to transfers of estates of decedents dying after August 30, 1935.

**§ 537. Assessment, collection, and payment of tax.** Except as provided in section 536, the tax imposed by section 535 shall be assessed, collected, and paid, in the same manner, and shall be subject to the same provisions of law (including penalties), as the tax imposed by section 410, except that in the case of a citizen or resident of the United States a return shall be required if the value of the gross estate at the time of the decedent's death exceeds \$40,000. (As amended Aug. 30, 1935, 6:00 p. m., c. 829, § 201 (c), 49 Stat. 1021.)

Subsection (d) of section 201 of Act August 30, 1935, c. 829, cited to the text, provided that the amendment to this section by subsection (c) of such Act should be effective only with respect to transfers of decedents dying after August 30, 1935.

## Chapter 4.—GIFT TAX

### § 551. Computation of tax.

\* \* \* \* \*

## RATE SCHEDULE

Upon net gifts not in excess of \$10,000, 1½ per centum.

\$150 upon net gifts of \$10,000; and upon net gifts in excess of \$10,000 and not in excess of \$20,000, 3 per centum in addition of such excess.

\$450 upon net gifts of \$20,000; and upon net gifts in excess of \$20,000 and not in excess of \$30,000, 4½ per centum in addition of such excess.

\$900 upon net gifts of \$30,000; and upon net gifts in excess of \$30,000 and not in excess of \$40,000, 6 per centum in addition of such excess.

\$1,500 upon net gifts of \$40,000; and upon net gifts in excess of \$40,000 and not in excess of \$50,000, 7½ per centum in addition of such excess.

\$2,250 upon net gifts of \$50,000; and upon net gifts in excess of \$50,000 and not in excess of \$70,000, 9 per centum in addition of such excess.

\$4,050 upon net gifts of \$70,000; and upon net gifts in excess of \$70,000 and not in excess of \$100,000, 10½ per centum in addition of such excess.

\$7,200 upon net gifts of \$100,000; and upon net gifts in excess of \$100,000 and not in excess of \$200,000, 12¾ per centum in addition of such excess.

\$19,950 upon net gifts of \$200,000; and upon net gifts in excess of \$200,000 and not in excess of \$400,000, 15 per centum in addition of such excess.

\$49,950 upon net gifts of \$400,000; and upon net gifts in excess of \$400,000 and not in excess of \$600,000, 17¼ per centum in addition of such excess.

\$84,450 upon net gifts of \$600,000; and upon net gifts in excess of \$600,000 and not in excess of \$800,000, 19½ per centum in addition of such excess.

\$123,450 upon net gifts of \$800,000; and upon net gifts in excess of \$800,000 and not in excess of \$1,000,000, 21¾ per centum in addition of such excess.

\$166,950 upon net gifts of \$1,000,000; and upon net gifts in excess of \$1,000,000 and not in excess of \$1,500,000, 24 per centum in addition of such excess.

\$286,950 upon net gifts of \$1,500,000; and upon net gifts in excess of \$1,500,000 and not in excess of \$2,000,000, 26¼ per centum in addition of such excess.

\$418,200 upon net gifts of \$2,000,000; and upon net gifts in excess of \$2,000,000 and not in excess of \$2,500,000, 28½ per centum in addition of such excess.

\$560,700 upon net gifts of \$2,500,000; and upon net gifts in excess of \$2,500,000 and not in excess of \$3,000,000, 30¾ per centum in addition of such excess.

\$714,450 upon net gifts of \$3,000,000; and upon net gifts in excess of \$3,000,000 and not in excess of \$3,500,000, 33 per centum in addition of such excess.

\$879,450 upon net gifts of \$3,500,000; and upon net gifts in excess of \$3,500,000 and not in excess of \$4,000,000, 35¼ per centum in addition of such excess.

\$1,055,700 upon net gifts of \$4,000,000; and upon net gifts in excess of \$4,000,000 and not in excess of \$4,500,000, 37½ per centum in addition of such excess.

\$1,243,200 upon net gifts of \$4,500,000; and upon net gifts in excess of \$4,500,000 and not in excess of \$5,000,000, 39¾ per centum in addition of such excess.

\$1,441,950 upon net gifts of \$5,000,000; and upon net gifts in excess of \$5,000,000 and not in excess of \$6,000,000, 42 per centum in addition of such excess.

\$1,861,950 upon net gifts of \$6,000,000; and upon net gifts in excess of \$6,000,000 and not in excess of \$7,000,000, 44¼ per centum in addition of such excess.

\$2,304,450 upon net gifts of \$7,000,000; and upon net gifts in excess of \$7,000,000 and not in excess of \$8,000,000, 45¾ per centum in addition of such excess.

\$2,761,950 upon net gifts of \$8,000,000; and upon net gifts in excess of \$8,000,000 and not in excess of \$9,000,000, 47¼ per centum in addition of such excess.

\$3,234,450 upon net gifts of \$9,000,000; and upon net gifts in excess of \$9,000,000 and not in excess of \$10,000,000, 48¾ per centum in addition of such excess.

\$3,721,950 upon net gifts of \$10,000,000; and upon net gifts in excess of \$10,000,000 and not in excess of \$20,000,000, 50¼ per centum in addition of such excess.

\$8,746,950 upon net gifts of \$20,000,000; and upon net gifts in excess of \$20,000,000 and not in excess of \$50,000,000, 51¾ per centum in addition of such excess.

\$24,271,950 upon net gifts of \$50,000,000; and upon net gifts in excess of \$50,000,000, 52½ per centum in addition of such excess. (As amended Aug. 30, 1935, 6:00 p. m. c. 829, § 301(a), 49 Stat. 1023.)

Subsection (c) of section 301 of Act August 30, 1935, c. 829, cited to the text, provided that the amendment of this section by subsection (a) of such Act should be applied in computing the tax for the calendar year 1936 and each calendar year thereafter (but not the tax for the calendar year 1935 or a previous calendar year), and that such amendment should be applied in all computations in respect of the calendar year 1935 and previous calendar years for the purpose of computing the tax for the calendar year 1936 or any calendar year thereafter.

§ 554. Deductions. In computing net gifts for any calendar year there shall be allowed as deductions:

(a) Residents. In the case of a citizen or resident—

(1) Specific exemption. An exemption of \$40,000, less the aggregate of the amounts claimed and allowed as specific exemption for preceding calendar years. (As amended Aug. 30, 1935, c. 829, § 301 (b), 49 Stat. 1023.)

Subsection (a) (1) of this section was amended by Act August 30, 1935, c. 829, § 301 (b), 49 Stat. 1025, by striking out “\$50,000” and inserting in lieu thereof “\$40,000.” Subsection (c) of the amending section provided that the amendment should be applied in computing the tax for the calendar year 1936 and each calendar year thereafter (but not the tax for the calendar year 1935 or a previous calendar year), and that such amendment should be applied in all computations in respect of the calendar year 1935 and previous calendar years for the purpose of computing the tax for the calendar year 1936 or any calendar year thereafter.

## Chapter 7.—DOCUMENTS, OTHER INSTRUMENTS, AND PLAYING CARDS

### SUBCHAPTER A—RATE AND PAYMENT OF TAX

#### § 900. Imposition of tax.

Sec 724 Stamp Tax on Transfer of Bonds, etc

(a) Schedule A of Title VIII of the Revenue Act of 1926 is amended by adding at the end thereof a new subdivision to read as follows:

“9 Bonds, etc. sales or transfers: On all sales, or agreements to sell, or memoranda of sales or deliveries of, or transfers of legal title to any of the instruments mentioned or described in subdivision 1 and of a kind the issue of which is taxable thereunder, whether made by any assignment in blank or by any delivery, or by any paper or agreement or memorandum or other evidence of transfer or sale (whether entitling the holder in any manner to the benefit of such instrument or not), on each \$100 of face value or fraction thereof, 4 cents: Provided, That it is not intended by this title to impose a tax upon an agreement evidencing a deposit of instruments as collateral security for money loaned thereon, which instruments are not actually sold, nor upon the delivery or transfer for such purpose of instruments so deposited: Provided further, That the tax shall not be imposed on deliveries or transfers of bonds in connection with a reorganization (as defined in section 112 of the Revenue Act of 1932) if any of the gain or loss from the exchange or distribution involved in the delivery or transfer is not recognized under the income tax law applicable to the year in which the delivery or transfer is made: Provided further, That the tax shall not be imposed upon deliveries or transfers to a broker for sale, nor upon deliveries or transfers by a broker to a customer for whom and upon whose order he has purchased same, but such deliveries or transfers shall be accompanied by a certificate setting forth the facts: Provided further, That the tax shall not be imposed upon deliveries or transfers from a fiduciary to a nominee of such fiduciary, or from one nominee of such fiduciary to another. If such instruments continue to be held by such nominee for the same purpose for which they would be held if retained by such fiduciary, or from the nominee to such fiduciary, but such deliveries or transfers shall be accompanied by a certificate setting forth the facts: Provided further, That where the change of ownership is by transfer of the instrument the stamp shall be placed upon the instrument; and in cases of an agreement to sell or where the transfer is by delivery of the instrument assigned in blank there shall be made and delivered by the seller to the buyer a bill or memorandum of such sale, to which the stamp shall be affixed; and every bill or memorandum of sale or agreement to sell before mentioned shall show the date thereof, the name of the seller, the amount of the sale, and the matter or thing to which it refers. Any person liable to pay the tax as herein provided, or anyone who acts in the matter as agent or broker for such person, who makes any such sale, or who in pursuance of any such sale delivers any certificate or evidence of the sale of any such instrument, or bill or memorandum thereof, as herein required, without having the proper stamps affixed thereto, with intent to evade the foregoing provisions, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not exceeding \$1,000, or be imprisoned not more than six months, or both.”

(b) Subsection (a) shall take effect on the fifteenth day after the date of the enactment of this Act



(c) Subdivision 9 of Schedule A of Title VIII of the Revenue Act of 1926, added to such schedule by subsection (a) of this section is repealed effective July 1, 1937. (June 6, 1932, c. 209, § 724, 47 Stat. 274, as amended June 16, 1933, c. 90, Title II, § 212, 48 Stat. 206; June 28, 1935, c. 333, 49 Stat. 431.)

Subdivision (c) of this section provided for repeal July 1, 1934. But by section 212 of Act June 16, 1933, c. 90, 48 Stat. 206, its provisions were continued to July 1, 1935. By Res. June 28, 1935, c. 333, 49 Stat. 431, the provisions of this section were continued to July 1, 1937.

See 725 Stamp Tax on Conveyances

Schedule A of Title VIII of the Revenue Act of 1926 is amended by adding at the end thereof a new subdivision to read as follows:

"8. Conveyances: Deed, instrument, or writing, delivered on or after the 15th day after the date of the enactment of the Revenue Act of 1932 and before July 1, 1937 (unless deposited in escrow before April 1, 1932), whereby any lands, tenements, or other realty sold shall be granted, assigned, transferred, or otherwise conveyed to, or vested in, the purchaser or purchasers, or any other person or persons, by his, her, or their direction when the consideration or value of the interest or property conveyed, exclusive of the value of any lien or encumbrance remaining thereon at the time of sale, exceeds \$100 and does not exceed \$500, 50 cents; and for each additional \$500 or fractional part thereof, 50 cents. This subdivision shall not apply to any instrument or writing given to secure a debt." (June 6, 1932, c. 209, § 725, 47 Stat. 275, as amended June 16, 1933, c. 90, Title II, § 212, 48 Stat. 206; June 28, 1935, c. 333, 49 Stat. 431.)

#### § 901. Corporate securities.

The tax imposed by this section is continued to July 1, 1937, by Res. June 28, 1935, c. 333, 49 Stat. 431.

**§ 902. Capital stock (and similar interests)—(a) Original issue.** On each original issue, whether on organization or reorganization, of shares or certificates of stock, or of profits, or of interest in property or accumulations, by any corporation, or by any investment trust or similar organization (or by any person on behalf of such investment trust or similar organization) holding or dealing in any of the instruments mentioned or described in this subsection or section 901 (whether or not such investment trust or similar organization constitutes a corporation within the meaning of this title), on each \$100 of par or face value or fraction thereof of the certificates issued by such corporation or by such investment trust or similar organization (or of the shares where no certificates were issued), 10 cents until July 1, 1937, and 5 cents thereafter: *Provided*, That where such shares or certificates are issued without par or face value, the tax shall be 10 cents until July 1, 1937, and 5 cents thereafter, per share (corporate share, or investment trust or other organization share, as the case may be), unless the actual value is in excess of \$100 per share, in which case the tax shall be 10 cents until July 1, 1937, and 5 cents thereafter, on each \$100 of actual value or fraction thereof of such certificates (or of the shares where no certificates were issued), or unless the actual value is less than \$100 per share, in which case the tax shall be 2 cents until July 1, 1937, and 1 cent thereafter, on each \$20 of actual value, or fraction thereof, of such certificates (or of the shares where no certificates were issued). The stamps representing the tax imposed by this subsection shall be attached to the stock books or corresponding records of the organization and not to the certificates issued. (Feb. 26, 1926, c. 27, Schedule A (2), 44 Stat. 101; June 6, 1932, c. 209, § 722 (a) (c), 47 Stat. 272; June 16, 1933, c. 90, § 212, 48 Stat. 206; June 28, 1935, c. 333, 49 Stat. 431.)

**(b) Sales and transfers.** On all sales, or agreements to sell, or memoranda of sales or deliveries of, or transfers of legal title to any of the shares or certificates mentioned or described in subsection (a), or to rights to subscribe for or to receive such shares or certificates, whether made upon or shown by the books of the corporation or other organization, or by any assignment in blank, or by any delivery, or by any paper or agreement or memorandum or other evidence of transfer or sale (whether entitling the holder in any manner to the benefit of such share, certificate, interest, or rights, or not), on each \$100 of par or face value or fraction thereof of the certificates of such corporation or other organization (or of the shares where no certificates were issued) 4 cents until July 1, 1937, and 2 cents thereafter, and where such shares or certificates are without par or

face value, the tax shall be 4 cents until July 1, 1937, and 2 cents thereafter, on the transfer or sale or agreement to sell on each share (corporate share, or investment trust or other organization share, as the case may be): *Provided*, That in case the selling price, if any, is \$20 or more per share the above rate shall be 5 cents instead of 4 cents until July 1, 1937: *Provided further*, That it is not intended by this chapter to impose a tax upon an agreement evidencing a deposit of certificates as collateral security for money loaned thereon, which certificates are not actually sold, nor upon the delivery or transfer for such purpose of certificates so deposited nor upon the return of stock loaned: *Provided further*, That the tax shall not be imposed upon deliveries or transfers to a broker for sale, nor upon deliveries or transfers by a broker to a customer for whom and upon whose order he has purchased same, but such deliveries or transfers shall be accompanied by a certificate setting forth the facts: *Provided further*, That the tax shall not be imposed upon deliveries or transfers from a fiduciary to a nominee of such fiduciary, or from one nominee of such fiduciary to another, if such shares or certificates continue to be held by such nominee for the same purpose for which they would be held if retained by such fiduciary, or from the nominee to such fiduciary, but such deliveries or transfers shall be accompanied by a certificate setting forth the facts: *Provided further*, That in case of sale where the evidence of transfer is shown only by the books of the corporation or other organization the stamp shall be placed upon such books; and where the change of ownership is by transfer of the certificate the stamp shall be placed upon the certificate; and in cases of an agreement to sell or where the transfer is by delivery of the certificate assigned in blank there shall be made and delivered by the seller to the buyer a bill or memorandum of such sale, to which the stamp shall be affixed; and every bill or memorandum of sale or agreement to sell before mentioned shall show the date thereof, the name of the seller, the amount of the sale, and the matter or thing to which it refers. (Feb. 26, 1926, c. 27, Schedule A (3), 44 Stat. 101; June 6, 1932, c. 209, § 723 (a), (c), 47 Stat. 272; June 16, 1933, c. 90, § 212, 48 Stat. 206; June 28, 1935, c. 333, 49 Stat. 431.)

#### § 903. Sales of produce or merchandise on exchanges.

The tax imposed by this section is continued to July 1, 1937, by Res. June 28, 1935, c. 333, 49 Stat. 431.

### Chapter 8.—ADMISSIONS AND DUES

#### SUBCHAPTER A—ADMISSIONS

#### § 940. Tax—(a) Single or season ticket; subscription—(1) Rate.

The date "July 1, 1935" appearing in this section has been changed to "July 1, 1937" by Res. June 28, 1935, c. 333, 49 Stat. 431.

### Chapter 9.—OLEOMARGARINE, ADULTERATED BUTTER, AND PROCESS OR RENOVATED BUTTER, AND OILS

#### SUBCHAPTER C—OILS

**§ 999b. Compensatory tax on products of certain oils.** During any period after the thirtieth day after August 30, 1935 when—

(1) a processing tax is in effect under section 999a or

(2) an import tax is in effect under section 601 (c)

(8) of the Revenue Act of 1932, as amended, there is imposed upon any article (not within the scope of either such tax) manufactured or produced wholly or in chief value from any one or more of the oils subject to either such tax, when such article is imported into the United States from any foreign country or from any possession of the United States or from the high seas, a compensatory tax equivalent to the tax which would be payable under such section



999 or section 999a upon such oil or oils if imported into the United States or if processed in the United States. The tax imposed by this section shall be levied, collected, and paid in the same manner as a duty imposed by chapter 4 of Title 19, and shall be treated, for the purposes of all provisions of law (except section 1336 of Title 19) not inconsistent with this section, as a duty imposed by such chapter. All taxes collected under this section on account of coconut oil produced from materials wholly of Philippine growth or production, shall be held as a separate fund and paid to the Treasury of the Philippine Islands, but if at any time the Philippine Government provides by any law for any subsidy to be paid to the producers of copra, coconut oil, or allied products, no further payments to the Philippine Treasury shall be made under this section. (Aug. 30, 1935, 6:00 p. m., c. 829, § 402, 49 Stat. 1026.)

## Chapter 18.—LIQUOR

### SUBCHAPTER A—DISTILLED SPIRITS

§ 1176. Exemption of distillers of fruit brandy from certain requirements. The Commissioner, with the approval of the Secretary, may exempt distillers of brandy made exclusively from apples, peaches, grapes, oranges, pears, pineapples, apricots, berries, plums, pawpaws, persimmons, prunes, figs, cherries, dates, or citrus fruits (except lemons and limes) from any provision of the internal-revenue laws relating to the manufacture of spirits, except as to the tax thereon, when in his judgment it may seem expedient to do so: *Provided*, That where, in the manufacture of wine or citrus-fruit wine, artificial sweetening has been used, the wine, or the fruit pomace residuum thereof, or the citrus-fruit wine may be used in the distillation of brandy or citrus-fruit brandy, as the case may be, and such use shall not prevent the Commissioner, with the approval of the Secretary, from exempting such distiller from any provision of the internal-revenue laws relating to the manufacture of spirits, except as to the tax thereon, when in his judgment it may seem expedient to do so: *And provided further*, That the distillers mentioned in this section may add to not less than five hundred gallons (ten barrels) of grape cheese \* \* \*. (As amended Aug. 29, 1935, c. 814, § 15, 49 Stat. 988.)

§ 1250. Establishment and control. The Commissioner is authorized in his discretion, and upon the execution of such bonds as he may prescribe, to establish warehouses, to be known as special bonded warehouses, exclusively (except as provided in section 1285) for the storage of brandy made from grapes, apples, peaches, or any other fruit the brandy distilled from which is not, or shall not be, required to be deposited in a distillery warehouse, each of which warehouses shall be in the charge of a storekeeper-gauger. \* \* \*

The Commissioner, under such regulations as he may promulgate from time to time with the approval of the Secretary, may, in his discretion, establish such warehouses adjacent to distilleries, and may, in his discretion, permit the removal of brandy directly from the distillery to such warehouses, and from such warehouses to the distillery warehouse of the producing distiller. (As amended Aug. 29, 1935, c. 814, § 16, 49 Stat. 989.)

§ 1265. Establishment and control. The Commissioner is authorized, in his discretion and upon the execution of such bond as he may prescribe, to establish one or more warehouses, to be known and designated as general bonded warehouses, and (except as provided in section 1285) to be used exclusively for the storage of distilled spirits made from materials other than fruit, each of which warehouses shall be in the charge of a storekeeper-gauger. \* \* \*

The Commissioner, under such regulations as he may promulgate from time to time with the approval of the Secretary, may, in his discretion, establish such warehouses adjacent to distilleries, and may,

in his discretion, permit the removal of spirits directly from the distillery to such warehouses, and from such warehouses to the distillery warehouse of the producing distiller. (As amended Aug. 29, 1935, c. 814, § 16, 49 Stat. 989.)

§ 1285. Concentration of distilled spirits in warehouse.

Repeated, Act May 14, 1935, c. 110, § 1, 49 Stat. 223.

### SUBCHAPTER B—WINES

§ 1300. Tax—(a) Rate \* \* \*.

(2) Sparkling wines.

\* \* \*  
On each bottle or other container of artificially carbonated wine, 2½ cents on each one-half pint or fraction thereof;

On each bottle or other container of liqueurs, cordials, or similar compounds, by whatever name sold or offered for sale, containing sweet wine fortified with grape brandy, or containing citrus-fruit wine fortified with citrus-fruit brandy, 2½ cents on each one-half pint or fraction thereof; \* \* \*. (As amended Aug. 29, 1935, c. 814, § 13, 49 Stat. 988.)

§ 1301. Fortification of wines. Under such regulations and official supervision and upon the giving of such notices, entries, bonds, and other security as the Commissioner, with the approval of the Secretary, may prescribe, any producer of wines defined under the provisions of this chapter may withdraw from any fruit distillery or special bonded warehouse grape brandy, or wine spirits, for the fortification of such wines on the premises where actually made, and any producer of citrus-fruit wines may similarly withdraw citrus-fruit brandy for the fortification of citrus-fruit wines on the premises where actually made: *Provided*, That there shall be levied and assessed against the producer of such wines or citrus-fruit wines a tax (in lieu of the internal-revenue tax now imposed thereon by law) of 20 cents per proof gallon of grape brandy, citrus-fruit brandy, or wine spirit whenever withdrawn and hereafter so used by him in the fortification of such wines or citrus-fruit wines during the preceding month, which assessment shall be paid by him within ten months from the date of notice thereof: *Provided further*, That nothing contained in this section shall be construed as exempting any wines, citrus-fruit wines, cordials, liqueurs, or similar compounds from the payment of any tax provided for in this chapter.

Any such wines or citrus-fruit wines may, under such regulations as the Secretary may prescribe, be sold or removed tax free for the manufacture of vinegar, or for the production of dealcoholized wines containing less than one-half of 1 per centum of alcohol by volume.

The taxes imposed by this section shall not apply to dealcoholized wines containing less than one-half of 1 per centum of alcohol by volume. (As amended Aug. 29, 1935, c. 814, § 12, 49 Stat. 988.)

§ 1302. Fortification of pure sweet wines—(d) Authorization for use of wine spirits produced by distiller.

\* \* \*  
The provisions of this subsection and subsection (b) shall apply to the use of citrus-fruit brandy in the preparation of fortified citrus-fruit wines in the same manner and to the same extent as such provisions apply to the use of wine spirits in the fortification of sweet wines, except that no brandy (other than a citrus-fruit brandy) may be used in the fortification of citrus-fruit wine and a citrus-fruit brandy prepared from one kind of citrus fruit may not be used for the fortification of a citrus-fruit wine prepared from another kind of citrus fruit or for the fortification of a wine prepared from any fruit other than citrus fruit. (As amended Aug. 29, 1935, c. 814, § 14, 49 Stat. 988.)

The amendment by Act Aug. 29, 1935, cited to the text, added the above paragraph to subsection (a) of this section.

### § 1310. Definitions.

(d) **Citrus fruit wine.** The provisions of the internal-revenue laws applicable to natural wine shall apply in the same manner and to the same extent to citrus-fruit wines which are the product of normal alcoholic fermentation of the juice of sound ripe citrus fruit (except lemons and limes), with or without the addition of dry cane, beet, or dextrose sugar (containing, respectively, not less than 95 per centum of actual sugar, calculated on a dry basis) for the purpose of perfecting the product according to standards, but without the addition or abstraction of other substances, except as may occur in the usual cellar treatment of clarifying or aging. (As amended Aug. 29, 1935, c. 814, § 11, 49 Stat. 987.)

## SUBCHAPTER E—MISCELLANEOUS PROVISIONS

### § 1342. Duties imposed upon the Attorney General and Commissioner of Internal Revenue. [Repealed.]

This section, which is composed of section 4 and subdivision (a) of section 6 of the "Prohibition Reorganization Act of 1930" was repealed by Act Aug. 27, 1935, c. 740, § 1, 49 Stat. 872, which provided as follows: "Titles I and II of the National Prohibition Act approved October 28, 1919 (41 Stat. 305), and all laws amendatory of, or supplementary to, the National Prohibition Act, are hereby repealed."

## Chapter 18A.—PETROLEUM

**§ 1355. Producers' tax on crude petroleum—(a) Rate.** There is hereby imposed on crude petroleum sold by the producer thereof, a tax of one twenty-fifth of 1 cent per barrel of 42 gallons, to be paid by the producer. Under regulations prescribed by the Commissioner, with the approval of the Secretary, such tax shall not apply to crude petroleum produced from any well which is not capable of producing more than 5 barrels per day. (As amended Aug. 30, 1935, c. 829, § 407, 49 Stat. 1027.)

Subsection (a) of this section was amended, effective September 1, 1935, by Act August 30, 1935, c. 829, § 407, 49 Stat. 1027, by striking out " $\frac{1}{20}$  of 1 cent per barrel" and inserting in lieu thereof " $\frac{1}{40}$  of 1 cent per barrel."

**§ 1356. Tax on refining of crude petroleum—(a) Rates.** There is hereby imposed (1) on crude petroleum refined or processed in the United States, a tax of one twenty-fifth of one cent per barrel of forty-two gallons, to be paid by the refiner or processor, and (2) on gasoline produced or recovered in the United States from natural gas a tax of one twenty-fifth of one cent per barrel of forty-two gallons, to be paid by the person producing or recovering such gasoline. (As amended Aug. 30, 1935, c. 829, § 407, 49 Stat. 1027.)

Subsection (a) of this section was amended, effective September 1, 1935, by Act August 30, 1935, c. 829, § 407, 49 Stat. 1027, by striking out " $\frac{1}{20}$  of 1 cent per barrel" and inserting in lieu thereof " $\frac{1}{40}$  of 1 cent per barrel."

## Chapter 18B.—CAPITAL STOCK TAXES

### § 1358. Capital stock tax.

"§ 702" in the citation to this section should read "§ 701."

**§ 1358a. Same; tax after June 30, 1935—(a) Rate on domestic corporations.** For each year ending June 30, beginning with the year ending June 30, 1936, there is hereby imposed upon every domestic corporation with respect to carrying on or doing business for any part of such year an excise tax of \$1.40 for each \$1,000 of the adjusted declared value of its capital stock.

(b) **Rate on foreign corporations.** For each year ending June 30, beginning with the year ending June 30, 1936, there is hereby imposed upon every foreign corporation with respect to carrying on or doing business in the United States for any part of such year an excise tax equivalent to \$1.40 for each \$1,000 of the adjusted declared value of capital employed in the transaction of its business in the United States.

(c) **Nonapplicability.** The taxes imposed by this section shall not apply—

(1) to any corporation enumerated in section 103;

(2) to any insurance company subject to the tax imposed by section 201, 204, or 207.

(d) **Returns; interest; other laws applicable; extensions; regulations.** Every corporation liable for tax under this section shall make a return under oath within one month after the close of the year with respect to which such tax is imposed to the collector for the district in which is located its principal place of business or, if it has no principal place of business in the United States, then to the collector at Baltimore, Maryland. Such return shall contain such information and be made in such manner as the Commissioner with the approval of the Secretary may by regulations prescribe. The tax shall, without assessment by the Commissioner or notice from the collector, be due and payable to the collector before the expiration of the period for filing the return. If the tax is not paid when due, there shall be added as part of the tax interest at the rate of 6 per centum per annum from the time when the tax became due until paid. All provisions of law (including penalties) applicable in respect of the taxes imposed by sections 1120 and 1124 (a) shall, insofar as not inconsistent with this section, be applicable in respect of the taxes imposed by this section. The Commissioner may extend the time for making the returns and paying the taxes imposed by this section, under such rules and regulations as he may prescribe with the approval of the Secretary, but no such extension shall be for more than sixty days.

(e) **Returns open to inspection.** Returns required to be filed for the purpose of the tax imposed by this section shall be open to inspection in the same manner, to the same extent, and subject to the same provisions of law, including penalties, as returns made under Title II of the Revenue Act of 1926, c. 27, 44 Stat. 10.

(f) **Adjusted declared value determined; adjustments.** For the first year ending June 30 in respect of which a tax is imposed by this section upon any corporation, the adjusted declared value shall be the value, as declared by the corporation in its first return under this section (which declaration of value cannot be amended), as of the close of its last income-tax taxable year ending at or prior to the close of the year for which the tax is imposed by this section (or as of the date of organization in the case of a corporation having no income-tax taxable year ending at or prior to the close of the year for which the tax is imposed by this section). For any subsequent year ending June 30, the adjusted declared value in the case of a domestic corporation shall be the original declared value plus (1) the cash and fair market value of property paid in for stock or shares, (2) paid in surplus and contributions to capital, (3) its net income, (4) the excess of its income wholly exempt from the taxes imposed by sections 1 to 322 over the amount disallowed as a deduction by section 24(a) (5), and (5) the amount of the dividend deduction allowable for income tax purposes, and minus (A) the value of property distributed in liquidation to shareholders, (B) distributions of earnings or profits, and (C) the excess of the deductions allowable for income tax purposes over its gross income; adjustment being made for each income-tax taxable year included in the period from the date as of which the original declared value was declared to the close of its last income-tax taxable year ending at or prior to the close of the year for which the tax is imposed by this section. The amount of such adjustment for each such year shall be computed (on the basis of a separate return) according to the income tax law applicable to such year. For any subsequent year ending June 30, the adjusted declared value in the case of a foreign corporation shall be the original declared value adjusted (for the same income-tax taxable years as in the case of a domestic corporation), in accordance with regulations prescribed by the Commissioner with the approval of the Secretary, to reflect increases or decreases in the

capital employed in the transaction of its business in the United States.

(g) **Credit to China Trade Act corporations.** For the purpose of the tax imposed by this section there shall be allowed in the case of a corporation organized under chapter 4 of Title 15, as a credit against the adjusted declared value of its capital stock, an amount equal to the proportion of such adjusted declared value which the par value of the shares of stock of the corporation, owned on the last day of the taxable year by (1) persons resident in China, the United States, or possessions of the United States, and (2) individual citizens of the United States or China wherever resident, bears to the par value of the whole number of shares of stock of the corporation outstanding on such date. For the purposes of this subsection shares of stock of a corporation shall be considered to be owned by the person in whom the equitable right to the income from such shares is in good faith vested; and as used in this subsection the term "China" shall have the same meaning as when used in chapter 4 of Title 15.

(h) **Application of former tax.** The capital stock tax imposed by section 1358 shall not apply to any taxpayer with respect to any year after the year ending June 30, 1935. (Aug. 30, 1935, 6:00 p. m., c. 829, § 105, 49 Stat. 1017.)

## Chapter 19.—OCCUPATIONAL TAXES

### SUBCHAPTER A—SPECIAL PROVISIONS

§ 1395a. Same; application after June 30, 1935. The special excise tax imposed by section 1395 shall not apply with respect to carrying on business after June 30, 1935. (Aug. 30, 1935, 6:00 p. m., c. 829, § 403, 49 Stat. 1026.)

## Chapter 20.—PROVISIONS COMMON TO MISCELLANEOUS TAXES

### TEMPORARY EXCISE TAXES IMPOSED BY REVENUE ACT OF 1932

#### TITLE IV (OF THE REVENUE ACT OF 1932).—MANUFACTURERS' EXCISE TAXES

§§ 601-630.

The taxes imposed by these sections have been continued to July 1, 1937, by Res. June 28, 1935, c. 333, 49 Stat. 431 § 620 Tax free sales

(3) for the exclusive use of the United States, any State, Territory of the United States, or any political subdivision of the foregoing, or the District of Columbia. (As amended Aug. 30, 1935, c. 829, § 401, 49 Stat. 1025, effective Oct. 1, 1935.)

§ 621. Credits and refunds.

(a) (3) to a manufacturer, producer, or importer, in the amount of tax paid by him under this title with respect to the sale of any article to any vendee, if the manufacturer, producer, or importer has in his possession such evidence as the regulations may prescribe that on or after October 1, 1935,

(A) such article was, by any person—

(i) resold for the exclusive use of the United States, any State, Territory of the United States, or any political subdivision of the foregoing, or the District of Columbia;

(ii) used or resold for use as fuel supplies, ship's stores, sea stores, or legitimate equipment on vessels of war of the United States or of any foreign nation, vessels employed in the fisheries or in the whaling business, or actually engaged in foreign trade or trade between the Atlantic and Pacific ports of the United States or between the United States and any of its possessions;

(iii) in the case of products embraced in paragraph (2) of section 617 (c), as amended, used or resold for use otherwise than as fuel for the propulsion of motor vehicles,

motor boats, or airplanes, and otherwise than in the production of such fuel. Provided, however, That no credit or refund shall be allowed or made under this paragraph in the case of sales or uses of products commonly or commercially known or sold as gasoline, including casinghead and natural gasoline;

(iv) in the case of lubricating oils, used or resold for nonlubricating purposes.

(B) The manufacturer, producer, or importer has repaid or agreed to repay the amount of such tax to the ultimate vendor; or has obtained the consent of the ultimate vendor to the allowance of the credit or refund. (As amended Aug. 30, 1935, 6:00 p. m., c. 829, § 401, 49 Stat. 1025, effective Oct. 1, 1935.)

(c) Interest shall be allowed at the rate of 6 per centum per annum with respect to any amount of tax under this title credited or refunded, except that no interest shall be allowed with respect to any amount of tax credited or refunded under the provisions of subsection (a) hereof, and except that no interest shall be allowed for any period prior to October 1, 1935. (As amended Aug. 30, 1935, c. 829, § 491, 49 Stat. 1025 effective Oct. 1, 1935.)

#### TITLE V (OF THE REVENUE ACT OF 1932).—MISCELLANEOUS TAXES

##### PART I.—TAX ON TELEGRAPH, TELEPHONE, RADIO, AND CABLE FACILITIES

§§ 701-702.

The taxes imposed by these sections are extended to July 1, 1937, by Res. approved June 28, 1935, c. 333, 49 Stat. 431

##### PART IV.—TAX ON TRANSPORTATION OF OIL BY PIPE LINE

§ 731. Tax on transportation of oil by pipe lines

The tax imposed by this section is continued to July 1, 1937, by Res. June 28, 1935, c. 333, 49 Stat. 431

## Chapter 21.—INFORMATION AND RETURNS

### SUBCHAPTER C—MISCELLANEOUS PROVISIONS

§ 1525. Failure to file returns; additions to tax. In the case of a failure to make and file an internal-revenue tax return required by law, within the time prescribed by law or prescribed by the Commissioner in pursuance of law, if the last date so prescribed for filing the return is after August 30, 1935, if a 25 per centum addition to the tax is prescribed by existing law, then there shall be added to the tax, in lieu of such 25 per centum: 5 per centum if the failure is for not more than 30 days, with an additional 5 per centum for each additional 30 days or fraction thereof during which failure continues, not to exceed 25 per centum in the aggregate. (Aug. 30, 1935, 6:00 p. m., c. 829, § 406, 49 Stat. 1027.)

## Chapter 25.—MISCELLANEOUS PROVISIONS

§ 1693a. Interest on delinquent taxes. Notwithstanding any provision of law to the contrary, interest accruing during any period of time after August 30, 1935 upon any internal-revenue tax (including amounts assessed or collected as a part thereof) or customs duty, not paid when due, shall be at the rate of 6 per centum per annum. (Aug. 30, 1935, 6:00 p. m., c. 829, § 404, 49 Stat. 1027.)

### § 1696. Definitions.

The provisions contained in paragraphs (2), (4), (5), (7), (8), (9), (11), (12), (13) and (17) of this section were repeated in Act August 30, 1935, c. 829, § 501, 49 Stat. 1027. The provisions contained in paragraph (1) were repeated by the same Act with the omission of the word "company."

### § 1699. Separability clause.

The provisions of this section were repeated in Act August 30, 1935, c. 829, § 502, 49 Stat. 1028.

## TITLE 27.—INTOXICATING LIQUORS

### Chapter 1.—GENERAL PROVISIONS

Sections 2 to 5, inclusive, of this chapter were repealed by the Act of Aug. 27, 1935, c. 740, § 1, 49 Stat. 872, which provided as follows: "Titles I and II of the National Prohibition Act, approved October 28, 1919 (41 Stat. 305), and all laws amendatory of, or supplementary to the National Prohibition Act, are hereby repealed."

### Chapter 2.—PROHIBITION OF INTOXICATING BEVERAGES

#### §§ 11-40.

Sections 11 to 40, inclusive, of this chapter, were repealed by the Act of Aug. 27, 1935, c. 740, § 1, 49 Stat. 872.

§ 40a. Remission or mitigation of forfeiture of vehicle or aircraft; possession pending trial—(a) Jurisdiction of court. Whenever, in any proceeding in court for the forfeiture, under the internal-revenue laws, of any vehicle or aircraft seized for a violation of the internal-revenue laws relating to liquors, such forfeiture is decreed, the court shall have exclusive jurisdiction to remit or mitigate the forfeiture.

(b) Conditions precedent to remission or mitigation. In any such proceeding the court shall not allow the claim of any claimant for remission or mitigation unless and until he proves (1) that he has an interest in such vehicle or aircraft, as owner or otherwise, which he acquired in good faith, (2) that he had at no time any knowledge or reason to believe that it was being or would be used in the violation of laws of the United States or of any State relating to liquor, and (3) if it appears that the interest asserted by the claimant arises out of or is in any way subject to any contract or agreement under which any person having a record or reputation for violating laws of the United States or of any State relating to liquor has a right with respect to such vehicle or aircraft, that, before such claimant acquired his interest, or such other person acquired his right under such contract or agreement, whichever occurred later, the claimant, his officer or agent, was informed in answer to his inquiry, at the headquarters of the sheriff, chief of police, principal Federal internal-revenue officer engaged in the enforcement of the liquor laws, or other principal local or Federal law-enforcement officer of the locality in which such other person acquired his right under such contract or agreement, of the locality in which such other person then resided, and of each locality in which the claimant has made any other inquiry as to the character or financial standing of such other person, that such other person had no such record or reputation.

(c) Claimants first entitled to delivery. Upon the request of any claimant whose claim for remission or mitigation is allowed and whose interest is first in the order of priority among such claims allowed in such proceeding and is of an amount in excess of, or equal to, the appraised value of such vehicle or aircraft, the court shall order its return to him; and, upon the joint request of any two or more claimants whose claims are allowed and whose interests are not subject to any prior or intervening interests claimed and allowed in such proceedings, and are of a total amount in excess of, or equal to, the appraised value of such vehicle or aircraft, the court shall order its return to such of the joint requesting claimants as is designated in such request. Such return shall be made only upon payment of all expenses incident to the seizure and forfeiture incurred by the United States. In all other cases the court shall order disposition of such vehicle or aircraft as provided in sections 304f to 304m of Title 40, and if such disposition

be by public sale, payment from the proceeds thereof, after satisfaction of all such expenses, of any such claim in its order of priority among the claims allowed in such proceedings.

(d) Delivery on bond pending trial. In any proceeding in court for the forfeiture under the internal-revenue laws of any vehicle or aircraft seized for a violation of the internal-revenue laws relating to liquor, the court shall order delivery thereof to any claimant who shall establish his right to the immediate possession thereof, and shall execute, with one or more sureties approved by the court, and deliver to the court, a bond to the United States for the payment of a sum equal to the appraised value of such vehicle or aircraft. Such bond shall be conditioned to return such vehicle or aircraft at the time of the trial and to pay the difference between the appraised value of such vehicle or aircraft as of the time it shall have been so released on bond and the appraised value thereof as of the time of trial; and conditioned further that, if the vehicle or aircraft be not returned at the time of trial, the bond shall stand in lieu of, and be forfeited in the same manner as, such vehicle or aircraft. Notwithstanding the provisions of this subsection or any other provisions of law relating to the delivery of possession on bond of vehicles or aircraft sought to be forfeited under the internal-revenue laws, the court may, in its discretion and upon good cause shown by the United States, refuse to order such delivery of possession. (Aug. 27, 1935, c. 740, § 204, 49 Stat. 878.)

#### §§ 41-43.

Sections 41 to 43 inclusive of this chapter were repealed by Act Aug. 27, 1935, c. 740, § 308 (a), 49 Stat. 880.

#### §§ 44-63.

Sections 44 to 63 inclusive and section 64 of this chapter were repealed by Act Aug. 27, 1935, c. 740, § 1, 49 Stat. 872.

See note to chapter 1.

### Chapter 2A.—BEER, ALE, PORTER AND SIMILAR FERMENTED LIQUOR

Sections 64a to 64o inclusive of this chapter were repealed by Act Aug. 27, 1935, c. 740, § 202 (a), 49 Stat. 877.

### Chapter 3.—INDUSTRIAL ALCOHOL

#### § 71. Definitions.

For additional definitions of words used in this chapter see section 151 of this title.

§ 73. Establishment of warehouses. Warehouses for the storage and distribution of alcohol may be established upon filing of application and bond, and issuance of permit at such places, (As amended Aug. 27, 1935, c. 740, § 17, 49 Stat. 876.)

§ 81. Withdrawal of alcohol tax free for denaturing and other enumerated purposes.

\* \* \* \* \*

But any person permitted to obtain alcohol tax free, except the United States and the several States and Territories and subdivisions thereof, and the District of Columbia, shall first apply for and secure a permit to purchase the same and give the bonds prescribed under section 155 of this title, but alcohol withdrawn for nonbeverage purposes for use of the United States and the several States, Territories and subdivisions thereof, and the District of Columbia may be purchased and withdrawn subject only to such regulations as may be prescribed. (As amended Aug. 27, 1935, c. 740, § 18, 49 Stat. 876.)

### Chapter 4.—PENALTIES

Sections 91 and 92 comprising this chapter were repealed by the Act Aug. 27, 1935, c. 740, § 1, 49 Stat. 872.  
See note to chapter 1.

### Chapter 5.—PROHIBITION REORGANIZATION ACT OF 1930

Sections 101 to 108 inclusive, comprising this chapter were repealed by Act Aug. 27, 1935, c. 740, § 1, 49 Stat. 872.  
See note to chapter 1.

### Chapter 6.—TRANSPORTATION IN INTERSTATE COMMERCE

§ 122. Shipment into states having dry laws; prohibition.

The language of this section was reenacted without change by Act Aug. 27, 1935, c. 740, § 202 (b), 49 Stat. 877.

### Chapter 7.—LIQUOR LAW REPEAL AND ENFORCEMENT ACT

#### Section

151. Definitions.
152. Reports of violations; arrests and prosecutions.
153. Violators of laws relating to denatured alcohol subject to laws pertaining to nondenatured alcohol including tax.
154. False description of denatured alcohol; revocation of manufacturer's permit; review.
155. Permits for manufacturing or dealing in denatured alcohol; terms and conditions; bonds.
156. Revocation of permits; review.
157. Possession of liquor or property intended for violation of law; search and seizure; forfeiture.
158. Rights, privileges and powers of Commissioner, assistants and employees.
159. Penalties.
160. Privileges and immunities of witnesses.
161. Place of sale when delivery made by carrier.
162. Affidavits, information and indictments, terms; uniting separate offenses in separate counts.
163. Inspection of records, liquor and property.
164. Assistants or agents designated to perform duties of Commissioner.
165. Conviction under one law as barring prosecution under another.
166. Tax where liquor lost by theft, fire or other casualty.
167. Citation of chapter.

§ 151. Definitions. When used in this chapter or in chapter 3 of this title—

(1) The word "person" shall mean and include natural persons, firms, partnerships, corporations, and associations;

(2) The word "Commissioner" shall mean Commissioner of Internal Revenue;

(3) The term "application" shall mean a formal written request supported by a verified statement of facts showing that the Commissioner may grant the request;

(4) The term "permit" shall mean a formal written authorization by the Commissioner setting forth specifically therein the things that are authorized;

(5) The term "bond" shall mean an obligation authorized or required by or under this chapter or in chapter 3 of this title, or any regulation thereunder, executed in such form and for such penal sum as may be required by the Commissioner or prescribed by regulation;

(6) The term "regulation" shall mean any regulation prescribed by the Commissioner with the approval of the Secretary of the Treasury for carrying out the provisions of this chapter or chapter 3 of this title, and the Commissioner is authorized to make such regulations.

(7) The term "articles" shall mean any substance or preparation in the manufacture of which denatured alcohol or denatured rum is used. (Aug. 27, 1935, c. 740, § 2, 49 Stat. 872.)

§ 152. Reports of violations; arrests and prosecutions. The Commissioner, his assistants, agents, and inspectors, shall investigate and report violations of this chapter and chapter 3 of this title to the United States attorney for the district in which committed, who is charged with the duty of prosecuting the offenders, subject to the direction of the Attorney Gen-

eral, as in the case of other offenses against the laws of the United States; and the Commissioner, his assistants, agents, and inspectors, may swear out warrants before United States commissioners or other officers or courts authorized to issue the same for the apprehension of such offenders, and may, subject to the control of the said United States attorney, conduct the prosecution at the committing trial for the purpose of having the offenders held for the action of a grand jury. Section 591 of Title 18 is made applicable in the enforcement of this chapter and chapter 3 of this title. Officers mentioned in said section 591 are authorized to issue search warrants under the limitations provided in sections 611-633 of Title 18. (Aug. 27, 1935, c. 740, § 3, 49 Stat. 872.)

§ 153. Violators of laws relating to denatured alcohol subject to laws pertaining to nondenatured alcohol including tax. Any person who shall produce, withdraw, sell, transport, or use denatured alcohol, denatured rum, or articles in violation of laws or regulations now or hereafter in force pertaining thereto, and all such denatured alcohol, denatured rum, or articles shall be subject to all provisions of law pertaining to alcohol that is not denatured, including those requiring the payment of tax thereon; and the person so producing, withdrawing, selling, transporting, or using the denatured alcohol, denatured rum, or articles shall be required to pay such tax. (Aug. 27, 1935, c. 740, § 4, 49 Stat. 873.)

§ 154. False descriptions of denatured alcohol; revocation of manufacturer's permit; review. Whenever the Commissioner has reason to believe that denatured alcohol, denatured rum, or articles do not correspond with the descriptions and limitations as to such alcohol, rum, or articles provided by law and regulations, he shall cause an analysis of said alcohol, rum, or articles to be made, and if upon such analysis the Commissioner shall find that said alcohol, rum, or articles do not so correspond, he shall give not less than fifteen days' notice in writing to the person who is the manufacturer thereof to show cause why said alcohol, rum, or articles should not be dealt with as other distilled spirits, such notice to be served personally or by registered mail, as the Commissioner may determine, and shall specify the time when, the place where, and the name of the agent or official before whom such person is required to appear.

If the manufacturer of said alcohol, rum, or articles fails to show to the satisfaction of the Commissioner that the alcohol, rum, or articles manufactured by him correspond to the descriptions and limitations as to such alcohol, rum, or articles provided by law and regulations, his permit to manufacture and sell the same shall be revoked. The manufacturer may by appropriate proceeding in a court of equity have the action of the Commissioner reviewed, and the court may affirm, modify, or reverse the finding of the Commissioner as the facts and law of the case may warrant, and during the pendency of such proceedings may restrain the manufacture, sale, or other disposition of such alcohol, rum, or articles. (Aug. 27, 1935, c. 740, § 5, 49 Stat. 873.)

§ 155. Permits for manufacturing or dealing in denatured alcohol; terms and conditions; bonds. No one shall manufacture alcohol, procure it tax free, denature it, deal in or use specially denatured alcohol, recover completely or specially denatured alcohol, or transport specially denatured or tax-free alcohol, without first obtaining a permit from the Commissioner so to do. All such permits may be issued for one year, and shall expire on the 31st day of December next succeeding the issuance thereof: *Provided*, That the Commissioner may without formal application or new bond extend any permit granted under this chapter or chapter 3 of this title after August 31 in any year to December 31 of the succeeding year.

Permits to purchase or procure specially denatured alcohol and tax-free alcohol shall be issued in such terms and under such conditions as the Commissioner shall by regulation prescribe.

No permit shall be issued to any person who, within one year prior to the application therefor or issuance thereof, shall not in good faith have conformed to the provisions of this chapter or chapter 3 of this title, or shall have violated the terms of any permit issued under this chapter or chapter 3 of this title, or made any false statement in the application therefor, or willfully failed to disclose any information required by regulation to be furnished, or violated any law of the United States relating to intoxicating liquor, or willfully violated any law of any State, Territory, or possession of the United States or of the District of Columbia relating to intoxicating liquor.

Every permit shall be in writing, dated when issued, and signed by the Commissioner or his authorized agent. It shall give the name and address of the person to whom it is issued and shall designate and limit the acts that are permitted and the time when and place where such acts may be performed. No permit shall be issued until a verified, written application shall have been made therefor, setting forth the qualification of the applicant and the purpose for which the alcohol or denatured alcohol is to be used.

The Commissioner may prescribe the form of all permits and applications and the facts to be set forth therein. Before any permit is granted, the Commissioner may require a bond in such form and amount as he may prescribe to insure compliance with the terms of the permit and the provisions of this chapter and chapter 3 of this title. In the event of the refusal by the Commissioner of any application for a permit, the applicant may have a review of his decision before a court of equity in the manner provided in section 154 of this title. (Aug. 27, 1935, c. 740, § 6, 49 Stat. 873.)

§ 156. Revocation of permits; review. If at any time there shall be filed with the Commissioner a complaint under oath setting forth facts showing, or if the Commissioner has reason to believe, that any person who has a permit is not in good faith conforming to the provisions of this chapter, or of chapter 3 of this title, or has violated the terms of such permit, or has made any false statement in the application therefor, or has willfully failed to disclose any information required by regulation to be furnished, or has violated any law of the United States or of any State, Territory, or possession of the United States or of the District of Columbia relating to intoxicating liquor, the Commissioner or his agent shall immediately issue an order citing such person to appear before him on a day named not more than thirty and not less than fifteen days from the date of service upon such permittee of a copy of the citation, which citation shall be accompanied by a copy of such complaint, or in the event that the proceedings be initiated by the Commissioner, with a statement of the facts constituting the violation charged, at which time a hearing shall be had unless continued for cause. Such hearings shall be held within the judicial district and within fifty miles of the place where the offense is alleged to have occurred, unless the parties agree on another place. If it be found that such person is not in good faith conforming to the provisions of this chapter, or of chapter 3 of this title, or has violated the terms of his permit, or made any false statement in the application therefor, or willfully failed to disclose any information required by regulation to be furnished, or violated any law of the United States relating to intoxicating liquor, or willfully violated any law of any State, Territory, or possession of the United States or of the District of Columbia relating to intoxicating liquor, such permit shall be revoked, and no permit shall be granted to such person within one year thereafter. Should the permit be revoked by the Commissioner, the permittee may have a review of his decision before a court of equity in the manner provided in section 154 of this title. During the

pendency of such action such permit shall be temporarily revoked. (Aug. 27, 1935, c. 740, § 7, 49 Stat. 874.)

§ 157. Possession of liquor or property intended for violation of law; search and seizure; forfeiture. It shall be unlawful to have or possess any liquor or property intended for use in violating the provisions of this chapter or chapter 3 of this title, or the internal-revenue laws, or regulations prescribed under such title or laws, or which has been so used, and no property rights shall exist in any such liquor or property. A search warrant may issue as provided in sections 611 to 633 of Title 18, for the seizure of such liquor or property. Nothing in this section shall in any manner limit or affect any criminal or forfeiture provision of the internal-revenue laws, or of any other law. The seizure and forfeiture of any liquor or property under the provisions of this chapter or chapter 3 of this title, and the disposition of such liquor or property subsequent to seizure and forfeiture, or the disposition of the proceeds from the sale of such liquor or property, shall be in accordance with existing laws or those hereafter in existence relating to seizures, forfeitures, and disposition of property or proceeds, for violation of the internal-revenue laws. (Aug. 27, 1935, c. 740, § 8, 49 Stat. 874.)

§ 158. Rights, privileges and powers of Commissioner, assistants and employees. The Commissioner his assistants, agents, and inspectors, and all other officers, employees, or agents of the United States, whose duty it is to enforce criminal laws, shall have all the rights, privileges, powers, and protection in the enforcement of the provisions of this chapter and chapter 3 of this title, which are conferred by law for the enforcement of any laws in respect of the taxation, importation, exportation, transportation, manufacture, possession, or use of, or traffic in, intoxicating liquors. (Aug. 27, 1935, c. 740, § 9, 49 Stat. 875.)

§ 159. Penalties. Any person violating the provisions of this chapter or of any regulations issued thereunder, for which offense a special penalty is not prescribed, shall be liable to the penalty or penalties prescribed in section 85 of this title. It shall be the duty of the prosecuting officer to ascertain, in the case of every violation of this chapter or the regulations made thereunder, for which offense a special penalty is not prescribed, or of chapter 3 of this title, or the regulations made thereunder, whether the defendant has been previously convicted and to plead the prior conviction in the affidavit, information, or indictment. (Aug. 27, 1935, c. 740, § 10, 49 Stat. 875.)

§ 160. Privileges and immunities of witnesses. No person shall be excused, on the ground that it may tend to incriminate him or subject him to a penalty or forfeiture, from attending and testifying, or producing books, papers, documents, and other evidence in obedience to a subpoena of any court in any suit or proceeding based upon or growing out of any alleged violation of this chapter or chapter 3 of this title; but no natural person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing as to which, in obedience to a subpoena and under oath, he may so testify or produce evidence, but no person shall be exempt from prosecution and punishment for perjury committed in so testifying. (Aug. 27, 1935, c. 740, § 11, 49 Stat. 875.)

§ 161. Place of sale when delivery made by carrier. In case of a sale of liquor or denatured alcohol or denatured rum where the delivery thereof was made by a common or other carrier the sale and delivery for purposes of prosecution or revocation of any permit shall be deemed to be made in the county or district wherein the delivery was made by such carrier to the consignee, his agent or employee, or in the county or district wherein the sale was made, or from which the shipment was made, and prosecution for



such sale or delivery may be had in any such county or district. (Aug. 27, 1935, c. 740, § 12, 49 Stat. 875.)

**§ 162. Affidavits, information and indictments; terms; uniting separate offenses in separate counts.** In any affidavit, information, or indictment for the violation of this chapter or chapter 3 of this title, or of both, separate offenses may be united in separate counts and the defendant may be tried on all at one trial and the penalty for all offenses may be imposed. It shall not be necessary in any affidavit, information, or indictment to give the name of the purchaser or to include any defensive negative averments, but it shall be sufficient to state that the act complained of was then and there prohibited and unlawful, but this provision shall not be construed to preclude the trial court from directing the furnishing of the defendant a bill of particulars when it deems it proper to do so. (Aug. 27, 1935, c. 740, § 13, 49 Stat. 875.)

**§ 163. Inspection of records, liquor and property.** All records and reports kept or filed under the provisions of this chapter or chapter 3 of this title, and all liquor or property to which such records or reports relate, shall be subject to inspection at any reasonable hour by the Commissioner or any of his agents or by any public prosecutor or by any person designated by him, or by any peace officer in the State where the records or reports are kept, and copies of such records and reports duly certified by the person with whom kept or filed may be introduced in evidence with like effect as the originals thereof, and verified copies of such records shall be furnished to the Commissioner when called for. (Aug. 27, 1935, c. 740, § 14, 49 Stat. 876.)

**§ 164. Assistants or agents designated to perform duties of Commissioner.** Any Act [sic] authorized by this chapter or chapter 3 of this title to be done by the Commissioner may be performed by any assistant or agent designated by him for that purpose. Records, reports, or returns required to be filed with the Commissioner may be filed with an Assistant Commissioner or other person designated by the Commissioner to receive such records, reports, or returns. (Aug. 27, 1935, c. 740, § 2, 49 Stat. 872.)

**§ 165. Conviction under one law as barring prosecution under another.** If any act or offense is a violation of this chapter or chapter 3 of this title, and also of any other law in regard to the manufacture or taxation of, or traffic in, intoxicating liquor, a conviction for such act or offense under the one shall be a bar to prosecution therefor under the other. (Aug. 27, 1935, c. 740, § 15, 49 Stat. 876.)

**§ 166. Tax where liquor lost by theft, fire or other casualty.** If distilled spirits upon which the internal-revenue tax has not been paid are lost by theft, accidental fire, or other casualty while in possession of a common carrier subject to sections 71-74, 76-78 and 141 of Title 49, or sections 801 to 889 of Title 46, or if lost by theft from a distillery or other bonded warehouse, and it shall be made to appear to the Commissioner that such losses did not occur as the result of negligence, connivance, collusion, or fraud on the part of the owner or person legally accountable for such distilled spirits, no tax shall be assessed or collected upon the distilled spirits so lost, nor shall any tax penalty be imposed or collected by reason of such loss, but the exemption from the tax and penalty shall only be allowed to the extent that the claimant is not indemnified against or recompensed for such loss. This provision shall apply to any claim for taxes or tax penalties that may have accrued since October 28, 1919, or that may accrue hereafter. Nothing in this section shall be construed as in any manner limiting or restricting the provisions of chapter 3 of this title. (Aug. 27, 1935, c. 740, § 16, 49 Stat. 876.)

**§ 167. Citation of chapter.** This chapter may be cited as the "Liquor Law Repeal and Enforcement Act." (Aug. 27, 1935, c. 740, § 1, 49 Stat. 872.)

## Chapter 8.—FEDERAL ALCOHOL ADMINISTRATION ACT

Section	
201	Citation of chapter.
202	Federal Alcohol Administration
203.	Unlawful businesses without permit; application to state agency
204	Permits
205	Unfair competition and unlawful practices
206	Bulk sales and bottling
207	Peralties; jurisdiction, compromise of liability.
208	Interlocking directorates
209	Disposal of forfeited alcoholic beverages
210.	Abolishment of Federal Alcohol Control Administration, transfer of records
211	Definitions, amendment or repeal of chapter; separability clause.

**§ 201. Citation of chapter.** This chapter may be cited as the "Federal Alcohol Administration Act." (Aug. 29, 1935, c. 814, § 1, 49 Stat. 977.)

**§ 202. Federal Alcohol Administration—(a) Establishment.** There is created the Federal Alcohol Administration as a division in the Treasury Department.

**(b) Administrator; appointment; compensation; eligibility.** The Administration shall be headed by an Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate. The Administrator shall for his services receive compensation at the rate of \$10,000 per annum, together with actual and necessary traveling and subsistence expenses while engaged in the exercise of his powers and duties outside the District of Columbia. No person shall be eligible to appointment, or continue in office, as Administrator if he is engaged or financially interested in, or is an officer or director of or employed by a corporation engaged in, the production or sale or other distribution of alcoholic beverages, or the financing thereof.

**(c) Employees; seal.** The Administrator shall, without regard to the civil-service laws and sections 661 to 674 of Title 5, appoint and fix the compensation and duties of such officers and employees as he deems necessary to carry out his powers and duties, but the compensation so fixed shall be subject to the approval of the Secretary of the Treasury. The Administrator is authorized to adopt an official seal, which shall be judicially noticed.

**(d) Regulations.** The Administrator is authorized and directed to prescribe such rules and regulations as may be necessary to carry out his powers and duties. All rules and regulations prescribed by the Administrator shall be subject to the approval of the Secretary of the Treasury.

**(e) Expenditures.** Appropriations to carry out powers and duties of the Administrator shall be available for expenditure, among other purposes, for personal services and rent in the District of Columbia and elsewhere, expenses for travel and subsistence, for law books, books of reference, magazines, periodicals, and newspapers, for contract stenographic reporting services, for subscriptions for library services, for purchase of samples for analysis or use as evidence, and for holding conferences of State and Federal liquor control officials.

**(f) Utilization of other governmental agencies.** The Administrator may, with the consent of the department or agency affected, utilize the services of any department or other agency of the Government to the extent necessary to carry out his powers and duties and authorize officers and employees thereof to act as his agents.

**(g) Applicability of other laws.** The provisions including penalties, of sections 49 and 50 of Title 15, shall be applicable to the jurisdiction, powers, and duties of the Administrator, and to any person (whether or not a corporation) subject to the provisions of laws administered by the Administrator.

**(h) Reports to Administrator.** The Administrator is authorized to require, in such manner and form as he shall prescribe, such reports as are necessary to carry out his powers and duties.

**(i) Report to Congress.** The Administrator shall make a report to Congress, at the beginning of each



regular session, of the administration of the functions with which he is charged, and shall include in such report the names and compensation of all persons employed by the Administration (Aug. 29, 1935, c. 814, § 2, 49 Stat. 977.)

§ 203. **Unlawful businesses without permit; application to state agency.** In order effectively to regulate interstate and foreign commerce in distilled spirits, wine, and malt beverages, to enforce the twenty-first amendment, and to protect the revenue and enforce the postal laws with respect to distilled spirits, wine, and malt beverages—

(a) It shall be unlawful, except pursuant to a basic permit issued under this chapter by the Administrator—

(1) to engage in the business of importing into the United States distilled spirits, wine, or malt beverages, or

(2) for any person so engaged to sell, offer or deliver for sale, contract to sell, or ship, in interstate or foreign commerce, directly or indirectly or through an affiliate, distilled spirits, wine, or malt beverages so imported.

This subsection shall take effect sixty days after the date upon which the Administrator first appointed under this chapter takes office.

(b) It shall be unlawful, except pursuant to a basic permit issued under this chapter by the Administrator—

(1) to engage in the business of distilling distilled spirits, producing wine, rectifying or blending distilled spirits or wine, or bottling, or warehousing and bottling, distilled spirits; or

(2) for any person so engaged to sell, offer or deliver for sale, contract to sell, or ship, in interstate or foreign commerce, directly or indirectly or through an affiliate, distilled spirits or wine so distilled, produced, rectified, blended, or bottled, or warehoused and bottled.

This subsection shall take effect sixty days after the date upon which the Administrator first appointed under this chapter takes office.

(c) It shall be unlawful, except pursuant to a basic permit issued under this chapter by the Administrator—

(1) to engage in the business of purchasing for resale at wholesale distilled spirits, wine, or malt beverages; or

(2) for any person so engaged to receive or to sell, offer or deliver for sale, contract to sell, or ship, in interstate or foreign commerce, directly or indirectly or through an affiliate, distilled spirits, wine, or malt beverages so purchased.

This subsection shall take effect March 1, 1936.

This section shall not apply to any agency of a State or political subdivision thereof or any officer or employee of any such agency, and no such agency or officer or employee shall be required to obtain a basic permit under this chapter. (Aug. 29, 1935, c. 814, § 3, 49 Stat. 878.)

§ 204. **Permits—(a) Who entitled thereto.** The following persons shall, on application therefor, be entitled to a basic permit:

(1) Any person who, on May 25, 1935, held a basic permit as distiller, rectifier, wine producer, or importer issued by an agency of the Federal Government.

(2) Any other person unless the Administrator finds (A) that such person (or in case of a corporation, any of its officers, directors, or principal stockholders) has, within five years prior to the date of application, been convicted of a felony under Federal or State law or has, within three years prior to date of application, been convicted of a misdemeanor under any Federal law relating to liquor, including the taxation thereof; or (B) that such person is, by reason of his business experience, financial standing, or trade connections, not likely to commence operations within a reasonable period or to maintain such operations in conformity with Federal law; or (C) that the operations proposed to be conducted by such

person are in violation of the law of the State in which they are to be conducted.

(b) **Refusal of permit; hearing.** If upon examination of any application for a basic permit the Administrator has reason to believe that the applicant is not entitled to such permit, he shall notify the applicant thereof and, upon request by the applicant, afford him due notice and opportunity for hearing on the application. If the Administrator, after affording such notice and opportunity for hearing, finds that the applicant is not entitled to a basic permit hereunder, he shall by order deny the application stating the findings which are the basis for his order.

(c) **Form of application.** The Administrator shall prescribe the manner and form of all applications for basic permits (including the facts to be set forth therein) and the form of all basic permits, and shall specify in any basic permit the authority conferred by the permit and the conditions thereof in accordance with the provisions of this chapter. To the extent deemed necessary by the Administrator for the efficient administration of this chapter, separate applications and permits shall be required by the Administrator with respect to distilled spirits, wine, and malt beverages, and the various classes thereof, and with respect to the various classes of persons entitled to permits hereunder. The issuance of a basic permit under this chapter shall not operate to deprive the United States of its remedy for any violation of law.

(d) **Conditions.** A basic permit shall be conditioned upon compliance with the requirements of section 205 of this title (relating to unfair competition and unlawful practices) and of section 206 of this title (relating to bulk sales and bottling), with the twenty-first amendment and laws relating to the enforcement thereof, and with all other Federal laws relating to distilled spirits, wine, and malt beverages, including taxes with respect thereto.

(e) **Revocation, suspension, and annulment.** A basic permit shall by order of the Administrator, after due notice and opportunity for hearing to the permittee, (1) be revoked, or suspended for such period as the Administrator deems appropriate, if the Administrator finds that the permittee has wilfully violated any of the conditions thereof, provided that for a first violation of the conditions thereof the permit shall be subject to suspension only; or (2) be revoked if the Administrator finds that the permittee has not engaged in the operations authorized by the permit for a period of more than two years; or (3) be annulled if the Administrator finds that the permit was procured through fraud, or misrepresentation, or concealment of material fact. The order shall state the findings which are the basis for the order.

(f) **Service of orders.** Orders of the Administrator with respect to any denial of application, suspension, revocation, annulment, or other proceedings, shall be served (1) in person by any officer or employee of the Administration designated by the Administrator or any internal revenue or customs officer authorized by the Administrator for the purpose, or (2) by mailing the order by registered mail, addressed to the applicant or respondent at his last known address in the records of the Administrator.

(g) **Duration.** A basic permit shall continue in effect until suspended, revoked, or annulled as provided herein, or voluntarily surrendered; except that (1) if leased, sold, or otherwise voluntarily transferred, the permit shall be automatically terminated thereupon, and (2) if transferred by operation of law or if actual or legal control of the permittee is acquired, directly or indirectly, whether by stock ownership or in any other manner, by any person, then such permit shall be automatically terminated at the expiration of thirty days thereafter: *Provided*, That if within such thirty-day period application for a new basic permit is made by the transferee or permittee, respectively, then the outstanding basic permit shall continue in effect until such application is finally acted on by the Administrator.

(h) **Appeal; procedure.** An appeal may be taken by the permittee or applicant for a permit from any order of the Administrator denying an application for, or suspending, revoking, or annulling, a basic permit. Such appeal shall be taken by filing, in the circuit court of appeals of the United States within any circuit wherein such person resides or has his principal place of business, or in the United States Court of Appeals for the District of Columbia, within sixty days after the entry of such order, a written petition praying that the order of the Administrator be modified or set aside in whole or in part. A copy of such petition shall be forthwith served upon the Administrator, or upon any officer designated by him for that purpose, and thereupon the Administrator shall certify and file in the court a transcript of the record upon which the order complained of was entered. Upon the filing of such transcript such court shall have exclusive jurisdiction to affirm, modify, or set aside such order, in whole or in part. No objection to the order of the Administrator shall be considered by the court unless such objection shall have been urged before the Administrator or unless there were reasonable grounds for failure so to do. The finding of the Administrator as to the facts, if supported by substantial evidence, shall be conclusive. If any party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for failure to adduce such evidence in the proceeding before the Administrator, the court may order such additional evidence to be taken before the Administrator and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The Administrator may modify his findings as to the facts by reason of the additional evidence so taken, and he shall file with the court such modified or new findings, which, if supported by substantial evidence, shall be conclusive, and his recommendation, if any, for the modification or setting aside of the original order. The judgment and decree of the court affirming, modifying, or setting aside, in whole or in part, any such order of the Administrator shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in sections 346 and 347 of Title 28. The commencement of proceedings under this subsection shall, unless specifically ordered by the court to the contrary, operate as a stay of the Administrator's order.

(i) **Limitation.** No proceeding for the suspension or revocation of a basic permit for violation of any condition thereof relating to compliance with Federal law shall be instituted by the Administrator more than eighteen months after conviction of the violation of Federal law, or, if no conviction has been had, more than three years after the violation occurred; and no basic permit shall be suspended or revoked for a violation of any such condition thereof if the alleged violation of Federal law has been compromised by any officer of the Government authorized to compromise such violation. (Aug. 29, 1935, c. 814, § 4, 49 Stat. 978.)

§ 205. **Unfair competition and unlawful practices.** It shall be unlawful for any person engaged in business as a distiller, brewer, rectifier, blender, or other producer, or as an importer or wholesaler, of distilled spirits, wine, or malt beverages, or as a bottler, or warehouseman and bottler, of distilled spirits, directly or indirectly or through an affiliate:

(a) **Exclusive outlet.** To require, by agreement or otherwise, that any retailer engaged in the sale of distilled spirits, wine, or malt beverages, purchase any such products from such person to the exclusion in whole or in part of distilled spirits, wine, or malt beverages sold or offered for sale by other persons in interstate or foreign commerce, if such requirement is made in the course of interstate or foreign commerce, or if such person engages in such practice to such an extent as substantially to restrain or prevent transactions in interstate or foreign commerce in any

such products, or if the direct effect of such requirement is to prevent, deter, hinder, or restrict other persons from selling or offering for sale any such products to such retailer in interstate or foreign commerce; or

(b) **"Tied house."** To induce through any of the following means, any retailer, engaged in the sale of distilled spirits, wine, or malt beverages, to purchase any such products from such person to the exclusion in whole or in part of distilled spirits, wine, or malt beverages sold or offered for sale by other persons in interstate or foreign commerce, if such inducement is made in the course of interstate or foreign commerce, or if such person engages in the practice of using such means, or any of them, to such an extent as substantially to restrain or prevent transactions in interstate or foreign commerce in any such products, or if the direct effect of such inducement is to prevent, deter, hinder, or restrict other persons from selling or offering for sale any such products to such retailer in interstate or foreign commerce: (1) By acquiring or holding (after the expiration of any existing license) any interest in any license with respect to the premises of the retailer; or (2) by acquiring any interest in real or personal property owned, occupied, or used by the retailer in the conduct of his business; or (3) by furnishing, giving, renting, lending, or selling to the retailer, any equipment, fixtures, signs, supplies, money, services, or other thing of value, subject to such exceptions as the Administrator shall by regulation prescribe, having due regard for public health, the quantity and value of articles involved, established trade customs not contrary to the public interest and the purposes of this subsection; or (4) by paying or crediting the retailer for any advertising, display, or distribution service; or (5) by guaranteeing any loan or the repayment of any financial obligation of the retailer; or (6) by extending to the retailer credit for a period in excess of the credit period usual and customary to the industry for the particular class of transactions, as ascertained by the Administrator and prescribed by regulations by him; or (7) by requiring the retailer to take and dispose of a certain quota of any of such products; or

(c) **Commercial bribery.** To induce through any of the following means, any trade buyer engaged in the sale of distilled spirits, wine, or malt beverages, to purchase any such products from such person to the exclusion in whole or in part of distilled spirits, wine, or malt beverages sold or offered for sale by other persons in interstate or foreign commerce, if such inducement is made in the course of interstate or foreign commerce, or if such person engages in the practice of using such means, or any of them, to such an extent as substantially to restrain or prevent transactions in interstate or foreign commerce in any such products, or if the direct effect of such inducement is to prevent, deter, hinder, or restrict other persons from selling or offering for sale any such products to such trade buyer in interstate or foreign commerce: (1) By commercial bribery; or (2) by offering or giving any bonus, premium, or compensation to any officer, or employee, or representative of the trade buyer; or

(d) **Consignment sales.** To sell, offer for sale, or contract to sell to any trade buyer engaged in the sale of distilled spirits, wine, or malt beverages, or for any such trade buyer to purchase, offer to purchase, or contract to purchase, any such products on consignment or under conditional sale or with the privilege of return or on any basis otherwise than a bona fide sale, or where any part of such transaction involves, directly or indirectly, the acquisition by such person from the trade buyer or his agreement to acquire from the trade buyer other distilled spirits, wine, or malt beverages—if such sale, purchase, offer, or contract is made in the course of interstate or foreign commerce, or if such person or trade buyer engages in such practice to such an extent as substantially to restrain or prevent transactions in interstate or foreign commerce in any such products

or if the direct effect of such sale, purchase, offer, or contract is to prevent, deter, hinder, or restrict other persons from selling or offering for sale any such products to such trade buyer in interstate or foreign commerce: *Provided*, That this subsection shall not apply to transactions involving solely the bona fide return of merchandise for ordinary and usual commercial reasons arising after the merchandise has been sold; or

(e) **Labeling.** To sell or ship or deliver for sale or shipment, or otherwise introduce in interstate or foreign commerce, or to receive therein, or to remove from customs custody for consumption, any distilled spirits, wine, or malt beverages in bottles, unless such products are bottled, packaged, and labeled in conformity with such regulations, to be prescribed by the Administrator, with respect to packaging, marking, branding, and labeling and size and fill of container (1) as will prohibit deception of the consumer with respect to such products or the quantity thereof and as will prohibit irrespective of falsity, such statements relating to age, manufacturing processes, analyses, guarantees, and scientific or irrelevant matters as the Administrator finds to be likely to mislead the consumer; (2) as will provide the consumer with adequate information as to the identity and quality of the products, the alcoholic content thereof (except that statements of, or statements likely to be considered as statements of, alcoholic content of malt beverages are hereby prohibited unless required by State law and except that, in case of wines, statements of alcoholic content shall be required only for wines containing more than 14 per centum of alcohol by volume), the net contents of the package, and the manufacturer or bottler or importer of the product; (3) as will require an accurate statement, in the case of distilled spirits (other than cordials, liqueurs, and specialties) produced by blending or rectification, if neutral spirits have been used in the production thereof, informing the consumer of the percentage of neutral spirits so used and of the name of the commodity from which such neutral spirits have been distilled, or in case of neutral spirits or of gin produced by a process of continuous distillation, the name of the commodity from which distilled; (4) as will prohibit statements on the label that are disparaging of a competitor's products or are false, misleading, obscene, or indecent; and (5) as will prevent deception of the consumer by use of a trade or brand name that is the name of any living individual of public prominence, or existing private or public organization, or is a name that is in simulation or is an abbreviation thereof, and as will prevent the use of a graphic, pictorial, or emblematic representation of any such individual or organization, if the use of such name or representation is likely falsely to lead the consumer to believe that the product has been indorsed, made, or used by, or produced for, or under the supervision of, or in accordance with the specifications of, such individual or organization: *Provided*, That this clause shall not apply to the use of the name of any person engaged in business as a distiller, brewer, rectifier, blender, or other producer, or as an importer, wholesaler, retailer, bottler, or warehouseman, of distilled spirits, wine, or malt beverages, nor to the use by any person of a trade or brand name used by him or his predecessor in interest prior to the date of the enactment of this Act; including regulations requiring, at time of release from customs custody, certificates issued by foreign governments covering origin, age, and identity of imported products: *Provided further*, That nothing herein nor any decision, ruling, or regulation of any Department of the Government shall deny the right of any person to use any trade name or brand of foreign origin not presently effectively registered in the United States Patent Office which has been used by such person or predecessors in the United States for a period of at least five years last past, if the use of such name or brand is qualified by the name of the locality in the United States in which the product is produced, and, in the case of the use of such name or brand

on any label or in any advertisement, if such qualification is as conspicuous as such name or brand.

It shall be unlawful for any person to alter, mutilate, destroy, obliterate, or remove any mark, brand, or label upon distilled spirits, wine, or malt beverages held for sale in interstate or foreign commerce or after shipment therein, except as authorized by Federal law or except pursuant to regulations of the Administrator authorizing relabeling for purposes of compliance with the requirements of this subsection or of State law.

In order to prevent the sale or shipment or other introduction of distilled spirits, wine, or malt beverages in interstate or foreign commerce, if bottled, packaged, or labeled in violation of the requirements of this subsection, no bottler, or importer of distilled spirits, wine, or malt beverages, shall, after such date as the Administrator fixes as the earliest practicable date for the application of the provisions of this subsection to any class of such persons (but not later than March 1, 1936, and only after thirty days' public notice), bottle or remove from customs custody for consumption distilled spirits, wine, or malt beverages, respectively, unless the bottler or importer, upon application to the Administrator, has obtained and has in his possession a certificate of label approval covering the distilled spirits, wine, or malt beverages, issued by the Administrator in such manner and form as he shall by regulations prescribe: *Provided*, That any such bottler shall be exempt from the requirements of this subsection if the bottler, upon application to the Administrator, shows to the satisfaction of the Administrator that the distilled spirits, wine, or malt beverages to be bottled by the applicant are not to be sold, or offered for sale, or shipped or delivered for shipment, or otherwise introduced, in interstate or foreign commerce. Officers of internal revenue and customs are authorized and directed to withhold the release of such products from the bottling plant or customs custody unless such certificates have been obtained, or unless the application of the bottler for exemption has been granted by the Administrator. The district courts of the United States, the Supreme Court of the District of Columbia, and the United States court for any Territory, shall have jurisdiction of suits to enjoin, annul, or suspend in whole or in part any final action by the Administrator upon any application under this subsection; or

(f) **Advertising.** To publish or disseminate or cause to be published or disseminated by radio broadcast, or in any newspaper, periodical or other publication or by any sign or outdoor advertisement or any other printed or graphic matter, any advertisement of distilled spirits, wine, or malt beverages, if such advertisement is in, or is calculated to induce sales in, interstate or foreign commerce, or is disseminated by mail, unless such advertisement is in conformity with such regulations, to be prescribed by the Administrator, (1) as will prevent deception of the consumer with respect to the products advertised and as will prohibit, irrespective of falsity, such statements relating to age, manufacturing processes, analyses, guarantees, and scientific or irrelevant matters as the Administrator finds to be likely to mislead the consumer; (2) as will provide the consumer with adequate information as to the identity and quality of the products advertised, the alcoholic content thereof (except that statements of, or statements likely to be considered as statements of, alcoholic content of malt beverages are prohibited and except that, in case of wines, statements of alcoholic content shall be required only for wines containing more than 14 per centum of alcohol by volume), and the person responsible for the advertisement; (3) as will require an accurate statement, in the case of distilled spirits (other than cordials, liqueurs, and specialties) produced by blending or rectification, if neutral spirits have been used in the production thereof, informing the consumer of the percentage of neutral spirits so used and of the name of the commodity from which such neutral spirits have been distilled, or in case of neutral spirits or of gin produced by a process of

continuous distillation, the name of the commodity from which distilled; (4) as will prohibit statements that are disparaging of a competitor's products or are false, misleading, obscene, or indecent; (5) as will prevent statements inconsistent with any statement on the labeling of the products advertised. This subsection shall not apply to outdoor advertising in place on June 18, 1935, but shall apply upon replacement, restoration, or renovation of any such advertising. The prohibitions of this subsection and regulations thereunder shall not apply to the publisher of any newspaper, periodical, or other publication, or radio broadcaster, unless such publisher or radio broadcaster is engaged in business as a distiller, brewer, rectifier, or other producer, or as an importer or wholesaler, of distilled spirits, wine, or malt beverages, or as a bottler, or warehouseman and bottler, of distilled spirits, directly or indirectly or through an affiliate.

The provisions of subsections (a), (b), and (c) shall not apply to any act done by an agency of a State or political subdivision thereof, or by any officer or employee of such agency.

In the case of malt beverages, the provisions of subsections (a), (b), (c), and (d) shall apply to transactions between a retailer or trade buyer in any State and a brewer, importer, or wholesaler of malt beverages outside such State only to the extent that the law of such State imposes similar requirements with respect to similar transactions between a retailer or trade buyer in such State and a brewer, importer, or wholesaler of malt beverages in such State, as the case may be. In the case of malt beverages, the provisions of subsections (e) and (f) shall apply to the labeling of malt beverages sold or shipped or delivered for shipment or otherwise introduced into or received in any State from any place outside thereof, or the advertising of malt beverages intended to be sold or shipped or delivered for shipment or otherwise introduced into or received in any State from any place outside thereof, only to the extent that the law of such State imposes similar requirements with respect to the labeling or advertising, as the case may be, of malt beverages not sold or shipped or delivered for shipment or otherwise introduced into or received in such State from any place outside thereof.

The Administrator shall give reasonable public notice, and afford to interested parties opportunity for hearing, prior to prescribing regulations to carry out the provisions of this section. (Aug. 29, 1935, c. 814, § 5, 49 Stat. 981.)

**§ 206. Bulk sales and bottling—(a) Offenses.** It shall be unlawful for any person—

(1) To sell or offer to sell, contract to sell, or otherwise dispose of distilled spirits in bulk except, under regulations of the Administrator, for export or to the following, or to import distilled spirits in bulk except, under such regulations, for sale to or for use by the following: A distiller, rectifier of distilled spirits, person operating a bonded warehouse qualified under the internal-revenue laws or a class 8 bonded warehouse qualified under the customs laws, a winemaker for the fortification of wines, a proprietor of an industrial alcohol plant, or an agency of the United States or any State or political subdivision thereof.

(2) To sell or offer to sell, contract to sell, or otherwise dispose of warehouse receipts for distilled spirits in bulk unless such warehouse receipts require that the warehouseman shall package such distilled spirits, before delivery, in bottles labeled and marked in accordance with law, or deliver such distilled spirits in bulk only to persons to whom it is lawful to sell or otherwise dispose of distilled spirits in bulk.

(3) To bottle distilled spirits unless the bottler is a person to whom it is lawful to sell or otherwise dispose of distilled spirits in bulk.

(b) **Penalty.** Any person who violates the requirements of this section shall, upon conviction thereof, be fined not more than \$5,000 or imprisoned for not

more than one year or both, and shall forfeit to the United States all distilled spirits with respect to which the violation occurs and the containers thereof.

(c) **"In bulk."** The terms "in bulk" mean in containers having a capacity in excess of one wine gallon. (Aug. 29, 1935, c. 814, § 6, 49 Stat. 985.)

**§ 207. Penalties; jurisdiction; compromise of liability.** The District Courts of the United States, the Supreme Court of the District of Columbia, and the United States court for any Territory, of the District where the offense is committed or threatened or of which the offender is an inhabitant or has his principal place of business, are hereby vested with jurisdiction of any suit brought by the Attorney General in the name of the United States, to prevent and restrain violations of any of the provisions of this chapter. Any person violating any of the provisions of section 203 or section 205 of this title shall be guilty of a misdemeanor and upon conviction thereof be fined not more than \$1,000 for each offense. Subject to the approval of the Attorney General, the Administrator is authorized, with respect to any violation of this chapter, to compromise the liability arising with respect to such violation (1) upon payment of a sum not in excess of \$500 for each offense, to be collected by the Administrator and to be paid into the Treasury as miscellaneous receipts, and (2) in case of repetitious violations and in order to avoid multiplicity of criminal proceedings, upon agreement to a stipulation that the United States may, on its own motion upon five days' notice to the violator, cause a consent decree to be entered by any court of competent jurisdiction enjoining the repetition of such violation. (Aug. 29, 1935, c. 814, § 7, 49 Stat. 985.)

**§ 208. Interlocking directorates—(a) Offenses.** Except as provided in subsection (b), it shall be unlawful for any individual to take office, after the date of the enactment of this chapter, as an officer or director of any company, if his doing so would make him an officer or director of more than one company engaged in business as a distiller, rectifier, or blender of distilled spirits, or of any such company and of a company which is an affiliate of any company engaged in business as a distiller, rectifier, or blender of distilled spirits, or of more than one company which is an affiliate of any company engaged in business as a distiller, rectifier, or blender of distilled spirits, unless, prior to taking such office, application made by such individual to the Administrator has been granted and after due showing has been made to him that service by such individual as officer or director of all the foregoing companies of which he is an officer or director together with service in the company with respect to which application is made will not substantially restrain or prevent competition in interstate or foreign commerce in distilled spirits. The Administrator shall, by order, grant or deny such application on the basis of the proof submitted to him and his finding thereon. The District Courts of the United States, the Supreme Court of the District of Columbia and the United States court for any Territory shall have jurisdiction of suits to enjoin, annul, or suspend in whole or in part any final action by the Administrator upon any application under this subsection.

(b) **Conditions of lawfully taking office.** An individual may, without regard to the provisions of subsection (a), take office as an officer or director of a company described in subsection (a) while holding the position of officer or director of any other such company if such companies are affiliates at the time of his taking office and if—

(1) Such companies are affiliates on the date of the enactment of this chapter; or

(2) Each of such companies has been organized under the law of a State to comply with a requirement thereof under which, as a condition of doing business in such State, such company must be organized under the law of such State; or

(3) One or more such companies has been organized under the law of a State to comply with a require-

ment thereof under which, as a condition of doing business in such State, such company must be organized under the laws of such State, and the other one or more of such companies not so organized, is in existence on the date of the enactment of this chapter; or

(4) One or more of such companies has been organized under the law of a State to comply with a requirement thereof under which, as a condition of doing business in such State, such company must be organized under the law of such State, and not more than one of such companies is a company which has not been so organized and which has been organized after August 29, 1935.

(c) "Company." As used in this section, the term "company" means a corporation, joint stock company, business trust, or association, but does not include any agency of a State or political subdivision thereof or any officer or employee of any such agency.

(d) Penalty. Any individual taking office in violation of this section shall be punished by a fine of not exceeding \$1,000. (Aug. 29, 1935, c. 814, § 8, 49 Stat. 986.)

#### § 209. Disposal of forfeited alcoholic beverages.

(a) All distilled spirits, wine, and malt beverages forfeited, summarily or by order of court, under any law of the United States, shall be delivered to the Secretary of the Treasury to be disposed of as hereinafter provided.

(b) The Secretary of the Treasury shall dispose of all distilled spirits, wine, and malt beverages which have been delivered to him pursuant to subsection (a)—

(1) By delivery to such Government agencies as, in his opinion, have a need for such distilled spirits, wine, or malt beverages for medicinal, scientific, or mechanical purposes; or

(2) By gift to such eleemosynary institutions as, in his opinion, have a need for such distilled spirits, wine, or malt beverages for medicinal purposes; or

(3) By destruction.

(c) No distilled spirits, wine, or malt beverages which have been seized under any law of the United States, may be disposed of in any manner whatsoever except after forfeiture and as provided in this section.

(d) The Secretary of the Treasury is authorized to make all rules and regulations necessary to carry out the provisions of this section. (Aug. 29, 1935, c. 814, § 9, 49 Stat. 987.)

§ 210. Abolishment of Federal Alcohol Control Administration; transfer of records. The Federal Alcohol Control Administration established by Executive order under the provisions of section 702 of Title 15 is hereby abolished. All papers, records, and property of such Federal Alcohol Control Administration are hereby transferred to the Administrator. This section shall take effect on the date that the Administrator first appointed under this chapter takes office (Aug. 29, 1935, c. 814, § 10, 49 Stat. 987.)

§ 211. Definitions; amendment or repeal of chapter; separability clause. (a) As used in this chapter

(1) The term "Administrator" means the head of the Federal Alcohol Administration.

(2) The term "United States" means the several States and Territories and the District of Columbia; the term "State" includes a Territory and the District of Columbia; and the term "Territory" means Alaska, Hawaii, and Puerto Rico.

(3) The term "interstate or foreign commerce" means commerce between any State and any place outside thereof, or commerce within any Territory or the District of Columbia, or between points within the same State but through any place outside thereof.

(4) The term "person" means individual, partnership, joint stock company, business trust, association, corporation, or other form of business enterprise, including a receiver, trustee, or liquidating agent and including an officer or employee of any agency of a State or political subdivision thereof; and the term "trade buyer" means any person who is a wholesaler or retailer.

(5) The term "affiliate" means any one of two or more persons if one of such persons has actual or legal control, directly or indirectly, whether by stock ownership or otherwise, of the other or others of such persons; and any one of two or more persons subject to common control, actual or legal, directly or indirectly, whether by stock ownership or otherwise.

(6) The term "distilled spirits" means ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whiskey, rum, brandy, gin, and other distilled spirits, including all dilutions and mixtures thereof, for non-industrial use.

(7) The term "wine" means (1) wine as defined in sections 1302 (d) and 1310 of Title 26, as now in force or hereafter amended, and (2) other alcoholic beverages not so defined, but made in the manner of wine, including sparkling and carbonated wine, wine made from condensed grape must, wine made from other agricultural products than the juice of sound, ripe grapes, imitation wine, compounds sold as wine, vermouth, cider, perry and sake; in each instance only if containing not less than 7 per centum and not more than 24 per centum of alcohol by volume, and if for non-industrial use.

(8) The term "malt beverage" means a beverage made by the alcoholic fermentation of an infusion or decoction, or combination of both, in potable brewing water, of malted barley with hops, or their parts, or their products, and with or without other malted cereals, and with or without the addition of unmalted or prepared cereals, other carbohydrates or products prepared therefrom, and with or without the addition of carbon dioxide, and with or without other wholesome products suitable for human food consumption.

(9) The term "bottle" means any container, irrespective of the material from which made, for use for the sale of distilled spirits, wine, or malt beverages at retail.

(b) The right to amend or repeal the provisions of this chapter is expressly reserved.

(c) If any provision of this chapter, or the application of such provision to any person or circumstance, is held invalid, the remainder of the chapter and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby. (Aug. 29, 1935, c. 814, § 17, 49 Stat. 989.)



## TITLE 28.—JUDICIAL CODE AND JUDICIARY

### Chapter 1.—DISTRICT COURTS; ORGANIZATION

§ 2. Additional district judges for certain districts; vacancies. [Repealed in part.]

Such part of the fourth sentence of this section as relates to Texas was repealed by Act Aug. 19, 1935, c. 558, § 2, 49 Stat. 659

§ 4e. Additional judges for Southern District of California. The President is authorized to appoint, by and with the consent of the Senate, two additional judges of the District Court of the United States for the Southern District of California, who shall possess the same powers, perform the same duties, and receive the same compensation as the present district judges of said district (Aug. 2, 1935, c. 425, § 1, 49 Stat. 508)

§ 4f. Same; vacancy. In the event a vacancy occurs in the office of the district judge now senior in date of commission in said district, and who was appointed under section 1 of this title, such vacancy, and succeeding vacancies in the same office, shall be filled without further action by Congress. (Aug. 2, 1935, c. 425, § 2, 49 Stat. 508.)

§ 4g. Additional judge for Eastern District of Virginia. The President of the United States is authorized and directed to appoint, by and with the advice and consent of the Senate, an additional judge of the District Court of the United States for the Eastern District of Virginia. (Aug. 2, 1935, c. 425, § 3, 49 Stat. 508.)

§ 4h. Filling vacancies in certain districts. Any existing vacancy and any vacancy which may occur at any time in any of the following United States district judgeships created by sections 3 and 4 of this title, are hereby authorized to be filled: Two in the District of Massachusetts; two in the Southern District of New York; one in the Eastern District of New York; one in the Western District of Pennsylvania; one in the Eastern District of Michigan; one in the Eastern District of Missouri; one in the Western District of Missouri; one in the Northern District of Ohio; one in the Southern District of California; one in the District of Minnesota; one in the Northern District of Texas; and one in the District of Arizona. (Aug. 19, 1935, c. 558, § 1, 49 Stat. 659.)

§ 4i. Additional judge for Eastern District of New York. The President of the United States is authorized and directed to appoint, by and with the advice and consent of the Senate, an additional district judge in the United States District Court for the Eastern District of New York. (Aug. 28, 1935, c. 793, 49 Stat. 945.)

### Chapter 2.—DISTRICT COURTS; JURISDICTION

§ 41. (Judicial Code, section 24, amended.) Original jurisdiction.

§ 41, subd. (1).

Jurisdiction in suits to recover share of expenses assessed against handlers of agricultural commodities regardless of amount in controversy, see section 610 of Title 7.

§ 41, subd. (16).

Jurisdiction of actions by or against Federal reserve banks, see section 632 of title 12.

§ 41, subd. (26).

"That" in line 4 of paragraph (26) in the Code should be omitted.

### Chapter 5.—DISTRICT COURTS; DISTRICTS AND PROVISIONS APPLICABLE TO PARTICULAR STATES

§ 149. (Judicial Code, section 76.) Florida.

See section 149a of this title.

§ 149a. Same; additional term for Southern District.

A term of the District Court of the United States for the Southern District of Florida shall be held annually at Fort Pierce, Florida, on the first Monday in February: *Provided*, That suitable rooms and accommodations for holding court at Fort Pierce are furnished without expense to the United States. No deputy clerk or deputy marshal of the court shall be appointed for Fort Pierce. (Aug. 22, 1935, c. 606, 49 Stat. 683)

§ 150. (Judicial Code, section 77, amended.) Georgia.

(b) The northern district shall include four divisions, constituted as follows: The Gainesville division, which shall include the territory embraced on January 1, 1925, in the counties of Banks, Barrow, Dawson, Forsyth, Habersham, Hall, Jackson, Lumpkin, Rabun, Stephens, Towns, Union, and White; the Atlanta division which shall include the territory embraced on such date in the counties of Campbell, Cherokee, Clayton, Cobb, De Kalb, Douglas, Fannin, Fulton, Gilmer, Gwinnett, Henry, Milton, Newton, Pickens, and Rockdale; the Rome division which shall include the territory embraced on such date in the counties of Bartow, Catoosa, Chattooga, Dade, Floyd, Gordon, Murray, Paulding, Polk, Walker, and Whitfield; and the Newnan division, which shall include the territory embraced on such date in the counties of Carroll, Coweta, Fayette, Haralson, Heard, Pike, Spalding, and Troup.

(c) Terms of the district court for the Gainesville division shall be held at Gainesville on the fourth Mondays in April and November; for the Atlanta division at Atlanta on the second Monday in March and the first Monday in October; for the Rome division at Rome on the third Mondays in May and November; and for the Newnan division if suitable rooms and accommodations are furnished for holding court thereat free of cost to the Government at Newnan on the first Mondays in April and November.

(d) The middle district shall include six divisions, constituted as follows: The Athens division, which shall include the territory embraced on January 1, 1925, in the counties of Clarke, Elbert, Franklin, Greene, Hart, Madison, Morgan, Oconee, Oglethorpe, and Walton; the Macon division, which shall include the territory embraced on such date in the counties of Baldwin, Bibb, Bleckley, Butts, Crawford, Hancock, Houston, Jasper, Jones, Lamar, Monroe, Peach, Pulaski, Putnam, Twiggs, Upson, Washington, and Wilkinson; the Columbus division, which shall include the territory embraced on such date in the counties of Chattahoochee, Clay, Harris, Marion, Meriwether, Muscogee, Quitman, Randolph, Stewart, Talbot, and Taylor; the Americus division, which shall include the territory embraced on such date in the counties of Crisp, Dooly, Lee, Macon, Schley, Sumter, Terrell, Webster, and Wilcox; the Albany division, which shall include the territory embraced on such date in the counties of Baker, Calhoun, Decatur, Dougherty, Early, Grady, Miller, Mitchell, Seminole, Turner, and Worth; and the Valdosta di-



vision, which shall include the territory embraced on such date in the counties of Berrien, Brooks, Colquitt, Cook, Echols, Irwin, Lanier, Lowndes, Thomas, and Tift.

\* \* \* \* \*

(g) The terms of the district court for the Augusta division shall be held at Augusta on the first Monday in April and the third Monday in November; for the Dublin division at Dublin on the third Mondays in January and June. *Provided*, That suitable rooms and accommodations are furnished for holding court at Dublin, free of cost to the Government, until public building shall have been erected or put into proper condition for such purpose in said city, for the Savannah division at Savannah on the second Tuesdays in February, May, August, and November, and for the Waycross division at Waycross on the second Mondays in June and December. *Provided*, That suitable rooms and accommodations are furnished for holding court at Waycross, free of cost to the Government, until public building shall have been erected or put into proper condition for such purpose in said city. (As amended Aug. 22, 1935, c. 603, §§ 1-3, 49 Stat. 680.)

Act Aug. 22, 1935, affected subsections (b), (c) and (d) of this section.

**§ 179. (Judicial Code, section 98, amended.) North Carolina.**

This section was amended by Act June 28, 1935, c. 331, § 1, 49 Stat. 430, (1) by striking out "Durham" in the second paragraph thereof, and (2) by inserting "Durham" immediately after the comma following the word "Davie" in the fourth paragraph of such section.

The third paragraph of section was amended by Act June 28, 1935, c. 331, § 2, 49 Stat. 430, (1) by striking out "at Durham on the first Mondays in March and September," and (2) by amending the proviso to read as follows: "And provided further, That at Wilson it shall be made incumbent upon that place to provide suitable facilities for holding the court."

**§ 184. (Judicial Code, section 103, amended.) Pennsylvania.**

\* \* \* Terms of the district court shall be held at Easton, Pennsylvania, on the first Tuesdays in June and November of each year: *Provided, however*, That all writs, precepts, and processes shall be returnable to the terms at Philadelphia and all court papers shall be kept in the clerk's office at Philadelphia unless otherwise specially ordered by the court, and the terms at Philadelphia shall not be terminated or affected by the terms provided for at Easton. \* \* \* as amended Aug. 3, 1935, c. 433, 49 Stat. 514.)

Act Aug. 3, 1935, c. 433 amended the fourth sentence of the section to read as above

**§ 195. (Judicial Code, section 114.) Wisconsin.** The State of Wisconsin is divided into two districts, to be known as the eastern and western districts of Wisconsin. The eastern district shall include the territory embraced on the 1st day of July 1910 in the counties of Brown, Calumet, Dodge, Door, Florence, Fond du Lac, Forest, Green Lake, Kenosha, Kewaunee, Langlade, Manitowoc, Marinette, Marquette, Milwaukee, Oconto, Outagamie, Ozaukee, Racine, Shawano, Sheboygan, Walworth, Washington, Waushara, Waupaca, Waushara, and Winnebago. Terms of the district court for said district shall be held in Milwaukee on the first Mondays in January and October, at Oshkosh on the second Tuesday in June, and at Green Bay on the first Tuesday in April. The western district shall include the territory embraced on the 1st day of July 1910 in the counties of Adams, Ashland, Barron, Bayfield, Buffalo, Burnett, Chipewewa, Clark, Columbia, Crawford, Dane, Douglas, Dunn, Eau Claire, Grant, Green, Iowa, Iron, Jackson, Jefferson, Juneau, La Crosse, Lafayette, Lincoln, Marathon, Monroe, Oneida, Pepin, Pierce, Polk, Portage, Price, Richland, Rock, Rusk, Saint Croix, Sauk, Sawyer, Taylor, Trempealeau, Vernon, Vilas, Washburn, and Wood. Terms of the district court for said district shall be held at Madison on the first Tuesday in December, at Eau Claire on the first Tuesday in June, at La Crosse on the third Tuesday in September,

at Wausau on the second Tuesday in April, and at Superior on the fourth Tuesday in January and the second Tuesday in July. The district court for each of said districts shall be open at all times for the purpose of hearing and deciding causes of admiralty and maritime jurisdiction so far as the same can be done without a jury. The clerk of the court for the western district shall maintain an office in charge of himself or a deputy at Madison, at La Crosse, at Wausau, and at Superior, which shall be kept open at all times for the transactions of the business of the court. The marshal for the western district shall appoint a deputy marshal who shall reside and keep his office at Superior. All writs and other process, except criminal warrants, issued at Superior, may be made returnable at Superior; and the clerk at that place shall keep in his office the original records of all actions, prosecutions, and special proceedings so commenced and pending therein. Criminal warrants may be returned at any place within the district where court is held. Whenever warrants issued at Superior shall be returned at any other place the clerk of the court wherein the warrant is returned shall certify the same under the seal of the court, together with the plea and other proceedings had thereon and the determination of the court upon such plea or proceedings, with all papers and orders filed in reference thereto, to the clerk of the court at Superior; and the clerk at Superior shall enter upon his records a minute of the proceedings had upon the return of said warrant, certified as aforesaid. All causes and proceedings instituted in the court at Superior shall be tried therein, unless by consent of the parties, or upon the order of the court, they are transferred to another place for trial. (As amended July 24, 1935, c. 413, 49 Stat. 495.)

Act July 24, 1935, inserted in fourth sentence, "at Wausau on the second Tuesday in April," and in sixth sentence it inserted "at Wausau"

**Chapter 6.—CIRCUIT COURTS OF APPEALS**

**§ 213e. Additional circuit judge for ninth circuit.** The President is authorized to appoint an additional judge of the Circuit Court of the United States for the Ninth Judicial Circuit, by and with the advice and consent of the Senate. (Aug. 2, 1935, c. 425, § 1, 49 Stat. 508.)

**§ 225. (Judicial Code, section 128, amended.) Appellate jurisdiction—(a) Review of final decisions.**

\* \* \* \* \*

Third. In the district courts for Alaska or any division thereof, and for the Virgin Islands, in all civil cases wherein the Constitution or a statute or treaty of the United States or any authority exercised thereunder is involved; in all other civil cases wherein the value in controversy, exclusive of interest and costs, exceeds \$1,000; in all criminal cases, and in all habeas corpus proceedings; and in the District Court of the Canal Zone in the cases and modes prescribed in sections 61 and 62, title 7, Canal Zone Code (48 Stat. 1122). (As amended May 31, 1935, c. 160, 49 Stat. 313.)

**§ 228a. Provisions relating to appellate procedure continued in force for circuit court of appeals.** All provisions of law in force on March 3, 1891, regulating the methods and system of review, through appeals, shall regulate the methods and system of appeals provided for in respect of the circuit courts of appeals, including all provisions for bonds or other securities to be required and taken on such appeals. (Mar. 3, 1891, c. 517, § 11, 26 Stat. 829; Jan. 31, 1928, c. 14, § 1, 45 Stat. 54.)

**Chapter 7.—THE COURT OF CLAIMS**

**§ 250a. Same; claims arising out of dredging operations; limitation.** The Court of Claims shall have jurisdiction to hear and determine claims for damages to oyster growers upon private or leased lands or

bottoms arising from dredging operations and use of other machinery and equipment in making such improvements: *Provided*, That suits shall be instituted within one year after such operations shall have terminated. (Aug. 30, 1935, c. 831, § 13, 49 Stat. 1049.)

#### Chapter 10.—PROVISIONS COMMON TO MORE THAN ONE COURT

##### § 400. (Judicial Code, section 274d.) Declaratory judgments authorized; procedure.

Paragraph (1) of this section was amended by Act August 30, 1935, c. 829, § 405, 49 Stat. 1027, by adding after the words "actual controversy" the words "(except with respect to Federal taxes)." It was also provided that such amendment should apply to any proceeding pending on August 30, 1935, in any court of the United States.

#### Chapter 12.—GENERAL PROVISIONS

##### § 420. (Judicial Code, section 289.) Circuit courts abolished; records.

The catchline of this section should read as above.

#### Chapter 15.—DISTRICT ATTORNEYS, MARSHALS, CLERKS, AND OTHER COURT OFFICERS, AND COMMISSIONERS

§ 503. Marshals; duties. It shall be the duty of the marshal of each district to attend the district courts when sitting therein and to execute all lawful precepts issued under the authority of the United States; and he shall have power to command all necessary assistance in the execution of his duty. (As amended June 15, 1935, c. 259, § 1, 49 Stat. 377.)

§ 504a. Same; arrests without warrant; carrying firearms. In addition to all other powers, United States marshals and their deputies shall have the power to make arrests without warrant for any offense against the laws of the United States committed in their presence or for any felony cognizable under the laws of the United States in cases where such felony has in fact been or is being committed and they have reasonable grounds to believe that the person to be arrested has committed or is committing it. The marshals and their deputies shall also have the power to carry firearms. (June 15, 1935, c. 259, § 2, 49 Stat. 378.)

§ 530. Law books for judges transmitted to successors.

Repeated in part, Act Mar 22, 1935, c. 39, § 1, 49 Stat. 83.

#### Chapter 16.—FEES, COMPENSATION, AND ACCOUNTS OF OFFICERS

##### FEES OF ATTORNEYS SOLICITORS, AND PROCTORS

§ 572. Attorneys, solicitors, and proctors.

\* \* \* \* \*

On appeals in admiralty, where the amount involved is not over \$1,000 a proctor's docket fee of \$20, where the amount involved is from \$1,000 to \$5,000 a proctor's docket fee of \$50; where the amount involved is over \$5,000 a proctor's docket fee of \$100. On such appeals cost of brief of successful party to be taxed, where amount involved is not over \$1,000 at not exceeding \$25; where amount involved is between \$1,000 and \$5,000 at not exceeding \$50; where amount involved is over \$5,000 at not exceeding \$75. (As amended Aug. 3, 1935, c. 431, § 1, 49 Stat. 513.)

Act Aug. 3, 1935, amended section by inserting above paragraph after the first paragraph of section.

##### MARSHALS' FEES

§ 574. Marshals; fees enumerated.

\* \* \* \* \*

In all cases in which the vessel or other property is sold by a public auctioneer or by some party other

than the marshal or his deputy, the fee herein authorized to be paid to the marshal shall be reduced by the amount paid to said auctioneer or other party. (As amended Aug. 3, 1935, c. 431, § 2, 49 Stat. 513.)

Act Aug. 3, 1935, amended section by striking out paragraph 15 and inserting the above paragraph in lieu thereof.

#### FEES OF JURORS AND WITNESSES

§ 600a. Per diem; mileage.

The provision of the Act of June 30, 1932, c. 314, § 323, 47 Stat. 413, temporarily reducing fees of jurors from \$4 to \$3 was continued in force during the fiscal year ending June 30, 1935, by Act March 28, 1935, c. 102, § 24, 48 Stat. 522, and during the fiscal year ending June 30, 1936, by Act Mar. 22, 1935, c. 39, § 3, 49 Stat. 105.

#### Chapter 18.—PROCEDURE

§ 754. Delivery bond in admiralty proceedings; further security; special bond.

\* \* \* \* \*

: *Provided*, That the parties may stipulate the amount of the bond or stipulation for the release of a vessel or other property on libel in admiralty to be not more than the amount claimed in the libel, with interest, plus an allowance for libellant's costs: *Provided further*, That in the event of the inability or refusal of the parties to so stipulate the amount of the bond, the court shall fix the amount thereof, but if not so fixed then a bond shall be required in the amount hereinbefore prescribed in this section. (As amended Aug. 3, 1935, c. 431, § 3, 49 Stat. 513.)

Aug. 3, 1935, amended section by striking out period at end thereof and inserting in lieu thereof the above text.

##### JUDGMENTS, COSTS, EXECUTIONS, AND MONEYS PAID INTO COURT

§ 847. Sales; real property under order or decree. All real estate or any interest in land sold under any order or decree of any United States court shall be sold at public sale at the courthouse of the county, parish, or city in which the property, or the greater part thereof, is located, or upon the premises or some parcel thereof located therein, as the court rendering such order or decree of sale may direct, said sale to be upon such terms and conditions as said court shall approve: *Provided, however*, That if said property shall be situated in more than one county, State, judicial district of the United States, or judicial circuit of the United States, whether in one or more parcels, said property shall be sold as a whole or in separate parcels at public sale at the courthouse of the county, parish, or city in which the greater part thereof is located or upon the premises or some parcel thereof as the court rendering such order or decree of sale may direct: *And provided further*, That if at the time said property is offered for sale it is in the possession of a receiver or receivers, or ancillary receiver or ancillary receivers, appointed by one or more district courts of the United States, said property wherever situated shall be sold at public sale in the district of primary jurisdiction at the courthouse of the county, parish, or city situated therein in which the greater part of said property in said district is located or on the premises or some parcel thereof located in such county, parish, or city therein as the court having primary jurisdiction by such order or decree of sale may direct, unless said court shall order the sale of the properties or one or more parcels thereof in one or more ancillary districts. The United States court having primary jurisdiction shall be deemed to be the court first appointing any such receiver.

After a hearing of which notice to all interested parties shall be given by publication or otherwise as the court may direct, the court may order and decree the sale of such real estate or interest in land or any part thereof at private sale for cash or other considerations and upon such terms and conditions as the court directing the sale may approve, if it finds that the best interests of the estate will be conserved thereby: *Provided*, That before confirmation of any private sale,

the court shall appoint three disinterested persons to appraise said property or, if the court deems advisable, different groups of three appraisers each to appraise properties of different classes or situate in different localities, and no private sale shall be confirmed at a price less than two-thirds of the appraised value: *Provided further*, That before confirmation of any private sale, the terms of such sale shall first be published in such newspaper or newspapers of general circulation as the court having jurisdiction may direct at least ten days before confirmation; and such private sale shall not then be confirmed by said court where a bona fide offer has been made, under such conditions as said court may prescribe, which offer shall guarantee at least a 10 per centum increase over the offered price specified in such private sale. The provisions of this section shall apply to sales and proceedings now pending in the courts of the United States as well as those commenced hereafter. The provisions of this section shall not apply to sales and proceedings under Title 11 or by receivers or conservators of banks, appointed by the Comptroller of the Currency. (As amended Apr. 24, 1935, c. 77, § 1, 49 Stat. 159; June 19, 1935, c. 276, 49 Stat. 390.)

§ 848. Same; personal property under order or decree. All personal property sold under any order or decree of any court of the United States shall be sold as provided in section 847 of this title, unless in the opinion of the court rendering such order or decree, it would be best to sell it in some other manner. The provisions of this section shall apply to sales and proceedings now pending in the courts of the United States as well as those commenced hereafter. The provisions of this section shall not apply to sales and proceedings under Title 11 or by receivers or conservators of banks, appointed by the Comptroller of the Currency. (As amended Apr. 24, 1935, c. 77, § 2, 49 Stat. 160; June 19, 1935, c. 276, 49 Stat. 390.)

§ 849. Same; necessity of notice. No sale of real estate ordered pursuant to section 847 of this title by any order, judgment, or decree of any United States court, other than a private sale, shall be had without previous publication of notices of such proposed sale being ordered and had once a week for at least four weeks prior to such sale in at least one newspaper printed, regularly issued, and having a general circulation in the county, State, judicial district of the United States, or judicial circuit of the United States where the real estate proposed to be sold is situated, if such there be. If said property shall be situated in more than one county, State, judicial district of the United States, or judicial circuit of the United States, such notice shall be published in one or more of the counties, States, judicial districts of the United States, or judicial circuits of

the United States where said property is situated, as the court may direct. Said notice shall be substantially in such form and contain such description of the property by reference or otherwise as the court ordering the sale shall approve. The court may, in its discretion, direct that the publication of the notice of sale herein provided for be made in such other newspapers as may seem proper. The provisions of this section shall apply to sales and proceedings now pending in the courts of the United States as well as those commenced hereafter in said courts. The provisions of this section shall not apply to sales and proceedings under Title 11 or by receivers or conservators of banks, appointed by the Comptroller of the Currency. (As amended Apr. 24, 1935, c. 77, § 3, 49 Stat. 160; June 19, 1935, c. 276, 49 Stat. 390.)

## Chapter 18.—PROCEDURE

### PROCEDURE ON APPEAL

#### § 863. Transcripts on appeals.

See sections 228 and 228a of this title.

#### § 870. Same; not required of United States.

Whenever an appeal, or other process in law, admiralty, or equity, issues from or is brought up to the Supreme Court, or a district court, either by the United States or by direction of any department of the Government or any corporation all the stock of which is beneficially owned by the United States, either directly or indirectly, no bond, obligation, or security shall be required from the United States, or from any party acting under the direction aforesaid, either to prosecute said suit, or to answer in damages or costs. In case of an adverse decision, such costs as by law are taxable against the United States, or against the party acting by direction as aforesaid, shall be paid out of the contingent fund of the department under whose directions the proceedings were instituted. (As amended June 19, 1934, c. 653, § 7, 48 Stat. 1109.)

The phrase "or a district court" is apparently proper in view of *U. S. v. Kinney*, 264 F. 542, based on *U. S. v. Bryant*, 111 U. S. 499, 4 S. Ct. 601, and holding that "while the section is allocated with others dealing with appeals, its terms are broad enough to cover any process in law issuing from a Circuit [District] Court." See section 228a of this title.

#### § 876. Judgment or decree on review from district court.

The words "in prize causes" in line 4 of this section should be deleted.

See section 228a of this title.

#### § 880. Appeals from district courts; applicability of same rules, etc., as writs of error.

The words "in prize causes" in line 3 should be deleted. See section 228a of this title.

## TITLE 29.—LABOR

### Chapter 4.—VOCATIONAL REHABILITATION OF PERSONS INJURED IN INDUSTRY

#### § 45b. Appropriation; apportionment to states.

(a) In order to enable the United States to cooperate with the States and Hawaii in extending and strengthening their programs of vocational rehabilitation of the physically disabled, and to continue to carry out the provisions and purposes of sections 31 to 44 of this title, there is hereby authorized to be appropriated for the fiscal years ending June 30, 1936, and June 30, 1937, the sum of \$841,000 for each such fiscal year in addition to the amount of the existing authorization, and for each fiscal year thereafter the sum of \$1,938,000. Of the sums appropriated pursuant to such authorization for each fiscal year, \$5,000 shall be apportioned to the Territory of Hawaii and the remainder shall be apportioned among the several States in the manner provided in such Act of June 2, 1920, as amended.

(b) For the administration of sections 31 to 44 of this title, by the Federal agency authorized to administer it, there is hereby authorized to be appropriated for the fiscal years ending June 30, 1936, and June 30, 1937, the sum of \$22,000 for each such fiscal year in addition to the amount of the existing authorization, and for each fiscal year thereafter the sum of \$102,000. (Aug. 14, 1935, c. 531, Title V, § 531, 49 Stat. 633.)

### Chapter 4B.—FEDERAL EMPLOYMENT SERVICE ACT

#### § 49d. Appropriations; apportionment among States; reapportionment of unexpended balances.

(a) For the purpose of carrying out the provisions of this chapter there is hereby authorized to be appropriated \$4,000,000 for each fiscal year up to and including the fiscal year ending June 30, 1938, and thereafter such sums annually as the Congress may deem necessary. Seventy-five per centum of the amounts appropriated under this chapter shall be apportioned by the director among the several States in the proportion which their population bears to the total population of the States of the United States according to the next preceding United States census, to be available for the purpose of establishing and maintaining systems of public employment offices in the several States and the political subdivisions thereof in accordance with the provisions of this chapter: *Provided, however,* That in apportioning said 75 per centum of amounts appropriated after January 1, 1935, under this chapter, the director shall apportion not less than \$10,000 to each State. No payment shall be made in any year out of the amount of such appropriations apportioned to any State until an equal sum has been appropriated or otherwise made available for that year by the State, or by any agency thereof, including appropriations made by local subdivisions, for the purpose of maintaining public employment offices as a part of a State-controlled system of public employment offices; except that the amounts so appropriated by the State shall not be less than 25 per centum of the apportionment according to population made by the director for each State for the current year, and in no event less than \$5,000. The balance of the amounts appropriated under this chapter shall be available for all the purposes of this chapter other than for apportionment among the several States as herein provided. (As amended May 10, 1935, c. 102, 49 Stat. 216.)

The amendment affected subsection (a) set out above.

### Chapter 7.—NATIONAL LABOR RELATIONS

Sec.

- 151. Findings and declaration of policy.
- 152. Definitions
- 153. National Labor Relations Board; creation and composition; annual reports
- 154. Same; salaries; officers and employees; termination of "Old Board"; payment of expenses
- 155. Same; principal office, conducting inquiries throughout country; participation in decisions or inquiries conducted by member
- 156. Same; rules and regulations
- 157. Right of employees as to organization, collective bargaining etc
- 158. Unfair labor practices by employer defined.
- 159. Representatives of employees for collective bargaining; determination of unit by Board; question affecting commerce, hearing; record on review where commerce questions involved
- 160. Prevention of unfair labor practices.
- 161. Investigatory powers of Board
- 162. Offenses and penalties
- 163. Right to strike preserved
- 164. Conflict of laws
- 165. Separability clause.
- 166. Citation of chapter.

§ 151. Findings and declaration of policy. The denial by employers of the right of employees to organize and the refusal by employers to accept the procedure of collective bargaining lead to strikes and other forms of industrial strife or unrest, which have the intent or the necessary effect of burdening or obstructing commerce by (a) impairing the efficiency, safety, or operation of the instrumentalities of commerce; (b) occurring in the current of commerce; (c) materially affecting, restraining, or controlling the flow of raw materials or manufactured or processed goods from or into the channels of commerce, or the prices of such materials or goods in commerce; or (d) causing diminution of employment and wages in such volume as substantially to impair or disrupt the market for goods flowing from or into the channels of commerce.

The inequality of bargaining power between employees who do not possess full freedom of association or actual liberty of contract, and employers who are organized in the corporate or other forms of ownership association substantially burdens and affects the flow of commerce, and tends to aggravate recurrent business depressions, by depressing wage rates and the purchasing power of wage earners in industry and by preventing the stabilization of competitive wage rates and working conditions within and between industries.

Experience has proved that protection by law of the right of employees to organize and bargain collectively safeguards commerce from injury, impairment, or interruption, and promotes the flow of commerce by removing certain recognized sources of industrial strife and unrest, by encouraging practices fundamental to the friendly adjustment of industrial disputes arising out of differences as to wages, hours, or other working conditions, and by restoring equality of bargaining power between employers and employees.

It is hereby declared to be the policy of the United States to eliminate the causes of certain substantial obstructions to the free flow of commerce and to mitigate and eliminate these obstructions when they have occurred by encouraging the practice and procedure of collective bargaining and by protecting the exercise by workers of full freedom of association, self-organization, and designation of representatives of their own choosing, for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection. (July 5, 1935, c. 372, § 1, 49 Stat. 449.)

§ 152. Definitions. When used in sections 151 to 166 of this title—

(1) The term "person" includes one or more individuals, partnerships, associations, corporations, legal representatives, trustees, trustees in bankruptcy, or receivers

(2) The term "employer" includes any person acting in the interest of an employer, directly or indirectly, but shall not include the United States, or any State or political subdivision thereof, or any person subject to sections 151 to 163 of Title 45, or any labor organization (other than when acting as an employer), or anyone acting in the capacity of officer or agent of such labor organization

(3) The term "employee" shall include any employee, and shall not be limited to the employees of a particular employer, unless the chapter explicitly states otherwise, and shall include any individual whose work has ceased as a consequence of, or in connection with, any current labor dispute or because of any unfair labor practice, and who has not obtained any other regular and substantially equivalent employment, but shall not include any individual employed as an agricultural laborer, or in the domestic service of any family or person at his home, or any individual employed by his parent or spouse.

(4) The term "representatives" includes any individual or labor organization.

(5) The term "labor organization" means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work

(6) The term "commerce" means trade, traffic, commerce, transportation, or communication among the several States, or between the District of Columbia or any Territory of the United States and any State or other Territory, or between any foreign country and any State, Territory, or the District of Columbia, or within the District of Columbia or any Territory, or between points in the same State but through any other State or any Territory or the District of Columbia or any foreign country

(7) The term "affecting commerce" means in commerce, or burdening or obstructing commerce or the free flow of commerce, or having led or tending to lead to a labor dispute burdening or obstructing commerce or the free flow of commerce

(8) The term "unfair labor practice" means any unfair labor practice listed in section 158 of this title.

(9) The term "labor dispute" includes any controversy concerning terms, tenure or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment, regardless of whether the disputants stand in the proximate relation of employer and employee.

(10) The term "National Labor Relations Board" means the National Labor Relations Board created by section 153 of this title

(11) The term "old Board" means the National Labor Relations Board established by Executive Order Numbered 6763 of the President on June 29, 1934, pursuant to section 702a of Title 15 approved June 19, 1934 (48 Stat. 1183), and reestablished and continued by Executive Order Numbered 7074 of the President of June 15, 1935, pursuant to chapter 15 of Title 15 as amended and continued by sections 702 and 705a of Title 15. (July 5, 1935, c. 372, § 2, 49 Stat. 450)

Termination of existence of "old Board," see subsection (b) of section 154 of this title

§ 153. National Labor Relations Board; creation and composition; annual reports. (a) There is created a board, to be known as the "National Labor Relations Board" (hereinafter referred to as the "Board"), which shall be composed of three mem-

bers, who shall be appointed by the President, by and with the advice and consent of the Senate. One of the original members shall be appointed for a term of one year, one for a term of three years, and one for a term of five years, but their successors shall be appointed for terms of five years each except that any individual chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he shall succeed. The President shall designate one member to serve as chairman of the Board. Any member of the Board may be removed by the President, upon notice and hearing, for neglect of duty or malfeasance in office, but for no other cause.

(b) A vacancy in the Board shall not impair the right of the remaining members to exercise all the powers of the Board, and two members of the Board shall, at all times, constitute a quorum. The Board shall have an official seal which shall be judicially noticed

(c) The Board shall at the close of each fiscal year make a report in writing to Congress and to the President stating in detail the cases it has heard, the decisions it has rendered, the names, salaries, and duties of all employees and officers in the employ or under the supervision of the Board, and an account of all moneys it has disbursed (July 5, 1935, c. 372, § 3, 49 Stat. 451.)

§ 154. Same; salaries; officers and employees; termination of "Old Board"; payment of expenses.

(a) Each member of the Board shall receive a salary of \$10,000 a year, shall be eligible for reappointment, and shall not engage in any other business, vocation, or employment. The Board shall appoint, without regard for the provisions of the civil-service laws but subject to sections 661 to 678 of Title 5, an executive secretary, and such attorneys, examiners, and regional directors, and shall appoint such other employees with regard to existing laws applicable to the employment and compensation of officers and employees of the United States, as it may from time to time find necessary for the proper performance of its duties and as may be from time to time appropriated for by Congress. The Board may establish or utilize such regional, local, or other agencies, and utilize such voluntary and uncompensated services, as may from time to time be needed. Attorneys appointed under this section may, at the direction of the Board, appear for and represent the Board in any case in court. Nothing in this chapter shall be construed to authorize the Board to appoint individuals for the purpose of conciliation or mediation (or for statistical work), where such service may be obtained from the Department of Labor.

(b) Upon the appointment of the three original members of the Board and the designation of its chairman, the old Board shall cease to exist. All employees of the old Board shall be transferred to and become employees of the Board with salaries under sections 661 to 678 of Title 5, without acquiring by such transfer a permanent or civil service status. All records, papers, and property of the old Board shall become records, papers, and property of the Board, and all unexpended funds and appropriations for the use and maintenance of the old Board shall become funds and appropriations available to be expended by the Board in the exercise of the powers, authority, and duties conferred on it by this chapter

(c) All of the expenses of the Board, including all necessary traveling and subsistence expenses outside the District of Columbia incurred by the members or employees of the Board under its orders, shall be allowed and paid on the presentation of itemized vouchers therefor approved by the Board or by any individual it designates for that purpose. (July 5, 1935, c. 372, § 4, 49 Stat. 451.)

§ 155. Same; principal office, conducting inquiries throughout country; participation in decisions or inquiries conducted by member. The principal office of the Board shall be in the District of Columbia, but

it may meet and exercise any or all of its powers at any other place. The Board may, by one or more of its members or by such agents or agencies as it may designate, prosecute any inquiry necessary to its functions in any part of the United States. A member who participates in such an inquiry shall not be disqualified from subsequently participating in a decision of the Board in the same case. (July 5, 1935, c. 372, § 5, 49 Stat. 452.)

**§ 156. Same; rules and regulations.** The Board shall have authority from time to time to make, amend, and rescind such rules and regulations as may be necessary to carry out the provisions of this chapter. Such rules and regulations shall be effective upon publication in the manner which the Board shall prescribe. (July 5, 1935, c. 372, § 6 (a), 49 Stat. 452.)

Section 6 of Act July 5, 1935, cited to the text, did not contain a subsection (b).

**§ 157. Right of employees as to organization, collective bargaining, etc.** Employees shall have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities, for the purpose of collective bargaining or other mutual aid or protection. (July 5, 1935, c. 372, § 7, 49 Stat. 452.)

**§ 158. Unfair labor practices by employer defined.** It shall be an unfair labor practice for an employer—

(1) To interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in section 157 of this title.

(2) To dominate or interfere with the formation or administration of any labor organization or contribute financial or other support to it: *Provided*, That subject to rules and regulations made and published by the Board pursuant to section 156 of this title, an employer shall not be prohibited from permitting employees to confer with him during working hours without loss of time or pay.

(3) By discrimination in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization: *Provided*, That nothing in this chapter, or in sections 701 to 712 or Title 15, or in any code or agreement approved or prescribed thereunder, or in any other statute of the United States, shall preclude an employer from making an agreement with a labor organization (not established, maintained, or assisted by any action defined in this chapter as an unfair labor practice) to require as a condition of employment membership therein, if such labor organization is the representative of the employees as provided in section 159 (a) of this title, in the appropriate collective bargaining unit covered by such agreement when made.

(4) To discharge or otherwise discriminate against an employee because he has filed charges or given testimony under this chapter.

(5) To refuse to bargain collectively with the representatives of his employees, subject to the provisions of section 159 (a) of this title. (July 5, 1935, c. 372, § 8, 49 Stat. 452.)

**§ 159. Representatives of employees for collective bargaining; determination of unit by Board; question affecting commerce, hearing; record on review where commerce questions involved.** (a) Representatives designated or selected for the purposes of collective bargaining by the majority of the employees in a unit appropriate for such purposes, shall be the exclusive representatives of all the employees in such unit for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, or other conditions of employment: *Provided*, That any individual employee or a group of employees shall have the right at any time to present grievances to their employer.

(b) The Board shall decide in each case whether, in order to insure to employees the full benefit of their right to self-organization and to collective bargaining, and otherwise to effectuate the policies of

this chapter, the unit appropriate for the purposes of collective bargaining shall be the employer unit, craft unit, plant unit, or subdivision thereof.

(c) Whenever a question affecting commerce arises concerning the representation of employees, the Board may investigate such controversy and certify to the parties, in writing, the name or names of the representatives that have been designated or selected. In any such investigation, the Board shall provide for an appropriate hearing upon due notice, either in conjunction with a proceeding under section 160 of this title or otherwise, and may take a secret ballot of employees, or utilize any other suitable method to ascertain [sic] such representatives.

(d) Whenever an order of the Board made pursuant to section 160 (c) of this title is based in whole or in part upon facts certified following an investigation pursuant to subsection (c) of this section, and there is a petition for the enforcement or review of such order, such certification and the record of such investigation shall be included in the transcript of the entire record required to be filed under subsections 160 (e) or 160 (f) of this title, and thereupon the decree of the court enforcing, modifying, or setting aside in whole or in part the order of the Board shall be made and entered upon the pleadings, testimony, and proceedings set forth in such transcript. (July 5, 1935, c. 372, § 9, 49 Stat. 453.)

**§ 160. Prevention of unfair labor practices—(a) Powers of Board generally.** The Board is empowered, as hereinafter provided, to prevent any person from engaging in any unfair labor practice (listed in section 158) affecting commerce. This power shall be exclusive, and shall not be affected by any other means of adjustment or prevention that has been or may be established by agreement, code, law, or otherwise.

(b) **Complaint and notice of hearing; answer; court rules of evidence inapplicable.** Whenever it is charged that any person has engaged in or is engaging in any such unfair labor practice, the Board, or any agent or agency designated by the Board for such purposes, shall have power to issue and cause to be served upon such person a complaint stating the charges in that respect, and containing a notice of hearing before the Board or a member thereof, or before a designated agent or agency, at a place therein fixed, not less than five days after the serving of said complaint. Any such complaint may be amended by the member, agent, or agency conducting the hearing or the Board in its discretion at any time prior to the issuance of an order based thereon. The person so complained of shall have the right to file an answer to the original or amended complaint and to appear in person or otherwise and give testimony at the place and time fixed in the complaint. In the discretion of the member, agent or agency conducting the hearing or the Board, any other person may be allowed to intervene in the said proceeding and to present testimony. In any such proceeding the rules of evidence prevailing in courts of law or equity shall not be controlling.

(c) **Reduction of testimony to writing; findings and orders of Board.** The testimony taken by such member, agent or agency or the Board shall be reduced to writing and filed with the Board. Thereafter, in its discretion, the Board upon notice may take further testimony or hear argument. If upon all the testimony taken the Board shall be of the opinion that any person named in the complaint has engaged in or is engaging in any such unfair labor practice, then the Board shall state its findings of fact and shall issue and cause to be served on such person an order requiring such person to cease and desist from such unfair labor practice, and to take such affirmative action, including reinstatement of employees with or without back pay, as will effectuate the policies of this chapter. Such order may further require such person to make reports from time to time showing the extent to which it has complied with the order.



If upon all the testimony taken the Board shall be of the opinion that no person named in the complaint has engaged in or is engaging in any such unfair labor practice, then the Board shall state its findings of fact and shall issue an order dismissing the said complaint.

(d) **Modification of findings or orders prior to filing record in court.** Until a transcript of the record in a case shall have been filed in a court, as hereinafter provided, the Board may at any time, upon reasonable notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any finding or order made or issued by it.

(e) **Petition to court for enforcement of order; proceedings; review of judgment.** The Board shall have power to petition any circuit court of appeals of the United States (including the Court of Appeals of the District of Columbia), or if all the circuit courts of appeals to which application may be made are in vacation, any district court of the United States (including the Supreme Court of the District of Columbia), within any circuit or district, respectively, wherein the unfair labor practice in question occurred or wherein such person resides or transacts business, for the enforcement of such order and for appropriate temporary relief or restraining order, and shall certify and file in the court a transcript of the entire record in the proceeding, including the pleadings and testimony upon which such order was entered and the findings and order of the Board. Upon such filing, the court shall cause notice thereof to be served upon such person, and thereupon shall have jurisdiction of the proceeding and of the question determined therein, and shall have power to grant such temporary relief or restraining order as it deems just and proper, and to make and enter upon the pleadings, testimony, and proceedings set forth in such transcript a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the Board. No objection that has not been urged before the Board, its member, agent or agency, shall be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances. The findings of the Board as to the facts, if supported by evidence, shall be conclusive. If either party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the Board, its member, agent, or agency, the court may order such additional evidence to be taken before the Board, its member, agent, or agency, and to be made a part of the transcript. The Board may modify its findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and it shall file such modified or new findings, which, if supported by evidence, shall be conclusive, and shall file its recommendations, if any, for the modification or setting aside of its original order. The jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the appropriate circuit court of appeals if application was made to the district court as hereinabove provided, and by the Supreme Court of the United States upon writ of certiorari or certification as provided in sections 346 and 347 of Title 28.

(f) **Review of final order of Board on petition to court.** Any person aggrieved by a final order of the Board granting or denying in whole or in part the relief sought may obtain a review of such order in any circuit court of appeals of the United States in the circuit wherein the unfair labor practice in question was alleged to have been engaged in or wherein such person resides or transacts business, or in the Court of Appeals of the District of Columbia, by filing in such court a written petition praying that the order of the Board be modified or set aside. A copy of such petition shall be forthwith served upon the Board, and thereupon the aggrieved party shall file in the court a transcript of the entire record in the proceeding, certified by the Board, including the pleading and tes-

timony upon which the order complained of was entered and the findings and order of the Board. Upon such filing, the court shall proceed in the same manner as in the case of an application by the Board under subsection (e), and shall have the same exclusive jurisdiction to grant to the Board such temporary relief or restraining order as it deems just and proper, and in like manner to make and enter a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the Board; and the findings of the Board as to the facts, if supported by evidence, shall in like manner be conclusive.

(g) **Institution of court proceedings as stay of Board's order.** The commencement of proceedings under subsection (e) or (f) of this section shall not, unless specifically ordered by the court, operate as a stay of the Board's order.

(h) **Jurisdiction of courts unaffected by limitations prescribed in chapter 6 of this title.** When granting appropriate temporary relief or a restraining order, or making and entering a decree enforcing, modifying, and enforcing as so modified or setting aside in whole or in part an order of the Board, as provided in this section, the jurisdiction of courts sitting in equity shall not be limited by sections 101 to 115 of this title.

(i) **Expeditious hearings on petitions.** Petitions filed under this chapter shall be heard expeditiously, and if possible within ten days after they have been docketed. (July 5, 1935, c. 372, § 10, 49 Stat. 453.)

§ 161. **Investigatory powers of Board.** For the purpose of all hearings and investigations, which, in the opinion of the Board, are necessary and proper for the exercise of the powers vested in it by sections 159 and 160 of this title—

(1) **Documentary evidence; summoning witnesses and taking testimony.** The Board, or its duly authorized agents or agencies, shall at all reasonable times have access to, for the purpose of examination, and the right to copy any evidence of any person being investigated or proceeded against that relates to any matter under investigation or in question. Any member of the Board shall have power to issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under investigation or in question, before the Board, its member, agent, or agency conducting the hearing or investigation. Any member of the Board, or any agent or agency designated by the Board for such purposes, may administer oaths and affirmations, examine witnesses, and receive evidence. Such attendance of witnesses and the production of such evidence may be required from any place in the United States or any Territory or possession thereof, at any designated place of hearing.

(2) **Court aid in compelling production of evidence and attendance of witnesses.** In case of contumacy or refusal to obey a subpoena issued to any person, any District Court of the United States or the United States courts of any Territory or possession, or the Supreme Court of the District of Columbia, within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Board shall have jurisdiction to issue to such person an order requiring such person to appear before the Board, its member, agent, or agency, there to produce evidence if so ordered, or there to give testimony touching the matter under investigation or in question; and any failure to obey such order of the court may be punished by said court as a contempt thereof.

(3) **Privilege of witnesses; immunity from prosecution.** No person shall be excused from attending and testifying or from producing books, records, correspondence, documents, or other evidence in obedience to the subpoena of the Board, on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or



subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

(4) **Process, service and return; fees of witnesses.** Complaints, orders, and other process and papers of the Board, its member, agent, or agency, may be served either personally or by registered mail or by telegraph or by leaving a copy thereof at the principal office or place of business of the person required to be served. The verified return by the individual so serving the same setting forth the manner of such service shall be proof of the same, and the return post office receipt or telegraph receipt therefor when registered and mailed or telegraphed as aforesaid shall be proof of service of the same. Witnesses summoned before the Board, its member, agent, or agency, shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and witnesses whose depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like services in the courts of the United States.

(5) **Process, where served.** All process of any court to which application may be made under this chapter may be served in the judicial district wherein the defendant or other person required to be served resides or may be found.

(6) **Information and assistance from departments.** The several departments and agencies of the Government, when directed by the President, shall furnish the Board, upon its request, all records, papers, and information in their possession relating to any mat-

ter before the Board. (July 5, 1935, c. 372, § 11, 49 Stat. 455.)

§ 162. **Offenses and penalties.** Any person who shall willfully resist, prevent, impede, or interfere with any member of the Board or any of its agents or agencies in the performance of duties pursuant to this chapter shall be punished by a fine of not more than \$5,000 or by imprisonment for not more than one year, or both. (July 5, 1935, c. 372, § 12, 49 Stat. 456.)

§ 163. **Right to strike preserved.** Nothing in this chapter shall be construed so as to interfere with or impede or diminish in any way the right to strike. (July 5, 1935, c. 372, § 13, 49 Stat. 457.)

§ 164. **Conflict of laws.** Wherever the application of the provisions of section 707 (a) of Title 15, or of section 207 of Title 11, paragraphs (l) and (m), conflicts with the application of the provisions of this chapter, this chapter shall prevail: *Provided*, That in any situation where the provisions of this chapter cannot be validly enforced, the provisions of such other sections shall remain in full force and effect. (July 5, 1935, c. 372, § 14, 49 Stat. 457.)

§ 165. **Separability clause.** If any provision of this chapter, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of this chapter, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby. (July 5, 1935, c. 372, § 15, 49 Stat. 457.)

§ 166. **Citation of chapter.** This chapter may be cited as the "National Labor Relations Act." (July 5, 1935, c. 372, § 16, 49 Stat. 457.)



## TITLE 30.—MINERAL LANDS AND MINING

### Chapter 1.—THE BUREAU OF MINES

#### § 11. Purchase of supplies or procurement of services for Bureau of Mines.

Repeated, Act May 9, 1935, c 101, § 1, 49 Stat 205

### Chapter 3.—LANDS CONTAINING COAL, PHOSPHATES, PETROLEUM, OIL, OIL SHALE, GAS, SODIUM, POTASSIUM, AND SO FORTH, AND BUILDING STONE

#### LEASES AND PROSPECTING PERMITS

§ 185. Rights-of-way for pipe lines. Rights-of-way through the public lands, including the forest reserves of the United States, may be granted by the Secretary of the Interior for pipe-line purposes for the transportation of oil or natural gas to any applicant possessing the qualifications provided in section 181 of this title, to the extent of the ground occupied by the said pipe line and twenty-five feet on each side of the same under such regulations and conditions as to survey, location, application, and use as may be prescribed by the Secretary of the Interior and upon the express condition that such pipe lines shall be constructed, operated, and maintained as common carriers and shall accept, convey, transport, or purchase without discrimination, oil or natural gas produced from Government lands in the vicinity of the pipe line in such proportionate amounts as the Secretary of the Interior may, after a full hearing with due notice thereof to the interested parties and a proper finding of facts, determine to be reasonable: *Provided*, That the Government shall in express terms reserve and shall provide in every lease of oil lands under sections 181 to 194, 201, 202 to 208, 211 to 214, 221, 223 to 229, 241, 251 and 261 to 263 of this title that the lessee, assignee, or beneficiary, if owner, or operator or owner of a controlling interest in any pipe line or of any company operating the same which may be operated accessible to the oil derived from lands under such lease, shall at reasonable rates and without discrimination accept and convey the oil of the Government or of any citizen or company not the owner of any pipe line, operating a lease or purchasing gas or oil under the provisions of sections 181 to 194, 201, 202 to 208, 211 to 214, 221, 223 to 229, 241, 251 and 261 to 263 of this title: *Provided further*, That no right-of-way shall hereafter be granted over said lands for the transportation of oil or natural gas except under and subject to the provisions, limitations, and conditions of this section. Failure to comply with the provisions of this section or the regulations and conditions prescribed by the Secretary of the Interior shall be ground for forfeiture of the grant by the United States district court for the district in which the property, or some part thereof, is located in an appropriate proceeding. (As amended Aug. 21, 1935, c. 399, § 1, 49 Stat 678)

§ 221. Prospecting permits; terms and conditions; extension; location of lands; marking land; notice of application for permits; permits in Alaska; exchanging permits for leases. The Secretary of the Interior is authorized, and directed, under such necessary and proper rules and regulations as he may prescribe, to grant to any applicant qualified under sections 181 to 194, 201, 202 to 208, 211 to 214, 221, 223 to 229, 241, 256 and 261 to 263 of this title, a prospecting permit, which shall give the exclusive right, for a period not exceeding two years, to prospect for oil or gas upon not to exceed two thousand five hundred and sixty

acres of land wherein such deposits belong to the United States and are not within any known geological structure of a producing oil or gas field upon condition that the permittee shall begin drilling operations within six months from the date of the permit, and shall, within one year from and after the date of permit, drill one or more wells for oil or gas to a depth of not less than five hundred feet each, unless valuable deposits of oil or gas shall be sooner discovered, and shall, within two years from date of the permit, drill for oil or gas to an aggregate depth of not less than two thousand feet unless valuable deposits of oil or gas shall be sooner discovered: *Provided*, That said application was filed ninety days prior to August 21, 1935. It being the intention of Congress that there shall be no discrimination as between applicants for prospecting permits, the Secretary of the Interior is directed, in every case where one or more permits have been issued, to issue permits to all other applicants for prospecting permits on the same structure, even though one or more of the permittees has developed the said structure into a producing oil or gas field, if said application for permit was filed prior to the development of such structure into a producing oil or gas field, and said applicant has otherwise complied with the law: *Provided further*, That when such permit is issued upon any structure after discovery, the royalty to be paid upon the preferential lease provided for in section 223 of this title shall be 10 per centum in amount or value of the production and the annual payment of a rental as provided in said section 223. No prospecting permit shall be granted upon any application filed after ninety days prior to August 21, 1935. The Secretary of the Interior may, if he shall find that the permittee has been unable with the exercise of diligence to test the land in the time granted by the permit, extend any such permit for such time, not exceeding two years, and upon such conditions as he shall prescribe: *Provided*, That all permits outstanding on August 21, 1935, which on said date shall not be subject to cancellation for violation of the law or operating regulations and which have theretofore been extended by the Secretary of the Interior, shall be extended until December 31, 1937, subject to the applicable conditions of such prior extensions: *Provided further*, That the Secretary of the Interior is authorized to extend for an additional period of not to exceed one year any permit on which diligence has been exercised or on which drilling or prospecting has been suspended at the direction of the Secretary during the extension period hereby granted, but no extension of any permit beyond December 31, 1938, shall be granted under authority of sections 181 to 194, 201, 202 to 208, 211 to 214, 221, 223 to 229, 241, 256 and 261 to 263 of this title, or any other Act. Whether the lands sought in any such application and permit are surveyed or unsurveyed the applicant shall, prior to filing his application for permit, locate such lands in a reasonably compact form and according to the legal subdivisions of the public-land surveys if the land be surveyed; and in an approximately square or rectangular tract if the land be an unsurveyed tract, the length of which shall not exceed two and one-half times its width, and if he shall cause to be erected upon the land for which a permit is sought a monument not less than four feet high, at some conspicuous place thereon, and shall post a notice in writing on or near said monument, stating that an application for permit will be made within thirty days after date of posting said notice, the name of the applicant, the date of the notice, and such a general description of the land to be covered by such permit by reference to courses and distances

from such monument and such other natural objects and permanent monuments as will reasonably identify the land, stating the amount thereof in acres, he shall during the period of thirty days following such marking and posting, be entitled to a preference right over others to a permit for the land so identified. The applicant shall, within ninety days after receiving a permit, mark each of the corners of the tract described in the permit upon the ground with substantial monuments, so that the boundaries can be readily traced on the ground, and shall post in a conspicuous place upon the lands a notice that such permit has been granted and a description of the lands covered thereby: *Provided further*, That in the Territory of Alaska prospecting permits not more than five in number may be granted to any qualified applicant for periods not exceeding four years, actual drilling operations shall begin within two years from date of permit, and oil and gas wells shall be drilled to a depth of not less than five hundred feet, unless valuable deposits of oil or gas shall be sooner discovered, within three years from date of the permit and to an aggregate depth of not less than two thousand feet unless valuable deposits of oil or gas shall be sooner discovered, within four years from date of permit: *Provided further*, That in said Territory the applicant shall have a preference right over others to a permit for land identified by temporary monuments and notice posted on or near the same for six months following such marking and posting, and upon receiving a permit he shall mark the corners of the tract described in the permit upon the ground with substantial monuments within one year after receiving such permit: *Provided further*, That any person holding a permit to prospect for oil or gas which shall not be subject to cancellation for violation of the law or operating regulations or which shall have been extended under the authority of sections 181 to 194, 201, 202 to 208, 211 to 214, 221, 223 to 229, 241, 256 and 261 to 263 of this title or any other Act, in force on or after August 21, 1935, or for which timely and acceptable application for extension shall have been filed prior to said date, shall have the right prior to the termination of such permit to exchange the same for a lease to the area described in the permit without proof of discovery, at a royalty of not less than 12½ per centum or value of the production, to be determined by the Secretary of the Interior by general rule and under such other conditions as are fixed in section 226 of this title: *Provided further*, That no such lease shall be subject to the acreage limitations of section 184 of this title, until one year after the discovery of valuable deposits of oil or gas thereon: *Provided further*, That any application for any prospecting permit filed after ninety days prior to August 21, 1935 shall be considered as an application for lease under section 226 of this title: *And provided further*, That upon leases so granted in lieu of existing permits or granted to applicants for permits, no rentals shall be payable for the first two lease years, unless valuable deposits of oil or gas are sooner discovered within the boundaries of such lease. (As amended Aug. 21, 1935, c. 599, § 1, 49 Stat. 674.)

§ 223. Leases; amount and survey of land; term of lease; royalties and annual rental. \* \* \* Such leases shall be for a term of twenty years upon a royalty of 5 per centum in amount or value of the production and the annual payment in advance of a rental of \$1 per acre, the rental paid for any one year to be credited against the royalties as they accrue for that year, and shall continue in force otherwise as prescribed in section 226 of this title for leases issued prior to August 21, 1935. The permittee shall also be entitled to a preference right to a lease for the remainder of the land in his prospecting permit at a royalty of not less than 12½ per centum in amount or value of the production nor more than the royalty rate prescribed by regulation in force on January 1, 1935, for secondary leases issued under this section, and under such other conditions as are fixed for oil or gas leases issued under section 226 of this title the royalty to be determined by competitive bidding or

fixed by such other method as the Secretary may by regulations prescribe: *Provided further*, That the Secretary shall have the right to reject any or all bids. (As amended Aug. 21, 1935, c. 599, § 1, 49 Stat. 676.)

§ 223a. New leases in lieu of old; terms and conditions. (a) The Secretary of the Interior is authorized to issue new leases to lessees holding oil or gas leases under any of the provisions of sections 181 to 194, 201, 202 to 208, 211 to 214, 221, 223 to 229, 241, 251 and 261 to 263 of this title on August 21, 1935, such new leases to be in lieu of the leases then held by such lessees and to be at a royalty rate of not less than 12½ per centum in amount or value of the production and upon such other terms and conditions as the Secretary of the Interior shall by general rule prescribe: *Provided*, That no limitation of acreage not provided for under the law or regulations under which any such old lease was issued shall be applicable to any such new lease.

(b) Nothing contained in this amendatory Act shall be construed to affect the validity of oil and gas prospecting permits or leases previously issued under the authority of sections 181 to 194, 201, 202 to 208, 211 to 214, 221, 223 to 229, 241, 251 and 261 to 263 of this title, and in existence on August 21, 1935, or impair any rights or privileges which have accrued under such permits or leases. (Aug. 21, 1935, c. 599, § 2, 49 Stat. 679.)

§ 226. Lease of unappropriated deposits of oil or gas in producing oil or gas field; royalties and annual rentals; cancellation of leases. All lands subject to disposition under sections 181 to 194, 201, 202 to 208, 211 to 214, 221, 223 to 229, 241, 256 and 261 to 263 of this title which are known or believed to contain oil or gas deposits, except as herein otherwise provided, may be leased by the Secretary of the Interior after August 21, 1935, to the highest responsible qualified bidder by competitive bidding under general regulations. Such lands shall be leased in units of not exceeding six hundred and forty acres, which shall be as nearly compact in form as possible. Such leases shall be conditioned upon the payment by the lessee of such bonus as may be accepted and of such royalty as may be fixed in the lease, which shall be not less than 12½ per centum in amount or value of the production and the payment in advance of a rental to be fixed in the lease of not less than 25 cents per acre per annum, which rental except as otherwise herein provided shall not be waived, suspended, or reduced unless and until a valuable deposit of oil or gas shall have been discovered within the lands leased: *Provided*, That the rental paid for any one year shall be credited against the royalties as they accrue for that year: *Provided further*, That in the event the Secretary of the Interior shall direct or shall assent to the suspension of operations or of production of oil or gas under any such lease, any payment of acreage rental as herein provided shall likewise be suspended during such period of suspension of operations or production: *And provided further*, That in the case of leases valuable only for the production of gas the Secretary of the Interior upon showing by the lessee that the lease cannot be successfully operated upon such rental or upon the royalty provided in the lease, may waive, suspend, or reduce such rental or reduce such royalty.

The Secretary of the Interior, for the purpose of more properly conserving the oil or gas resources of any area, field, or pool, may require that leases issued after August 21, 1935 under sections 181 to 194, 201, 202 to 208, 211 to 214, 221, 223 to 229, 241, 256 and 261 to 263 of this title be conditioned upon an agreement by the lessee to operate, under such reasonable cooperative or unit plan for the development and operation of any such area, field, or pool as said Secretary may determine to be practicable and necessary or advisable, which plan shall adequately protect the rights of all parties in interest, including the United States: *Provided*, That all leases operated under such plan approved or prescribed by said Secretary shall be excepted in determining holdings or control under

the provisions of sections 181 to 194, 201, 202 to 208, 211 to 214, 221, 223 to 229, 241, 256 and 261 to 263 of this title.

Leases issued after August 21, 1935 under this section shall be for a period of five years and so long thereafter as oil or gas is produced in paying quantities when the lands to be leased are not within any known geological structure of a producing oil or gas field, and for a period of ten years and so long thereafter as oil or gas is produced in paying quantities when the lands to be leased are within any known geological structure of a producing oil or gas field: *Provided*, That no such lease shall be deemed to expire by reasons of suspension of prospecting, drilling, or production pursuant to any order or consent of the said Secretary: *Provided further*, That the person first making application for the lease of any lands not within any known geologic structure of a producing oil or gas field who is qualified to hold a lease under sections 181 to 194, 201, 202 to 208, 211 to 214, 221, 223 to 229, 241, 251 and 261 to 263 of this title, including applicants for permits whose applications were filed after ninety days prior to August 21, 1935 shall be entitled to a preference right over others to a lease of such lands without competitive bidding at a royalty, in the case of oil, of 12½ per centum in amount or value of the production when the said production does not exceed fifty barrels per well per day for the calendar month and of not less than 12½ per centum in amount or value of the production when the said production exceeds fifty barrels per well per day for the calendar month, and, in the case of gas, at a royalty of 12½ per centum in amount or value of the production when the said production does not exceed five million cubic feet per well per day for the calendar month and, when the said production exceeds five million cubic feet per well per day for the calendar month, at a royalty of not less than 12½ per centum in amount or value of the production.

Leases issued prior to August 21, 1935 shall continue in force and effect in accordance with the terms of such leases and the laws under which issued: *Provided*, That any such lease that has become the subject of a cooperative or unit plan of development or operation, or other plan for the conservation of the oil and gas of a single area, field, or pool, which plan has the approval of the Secretary of the Department or Departments having jurisdiction over the Government lands included in said plan as necessary or convenient in the public interest, shall continue in force beyond said period of twenty years until the termination of such plan: *And provided further*, That said Secretary or Secretaries shall report all leases so continued to Congress at the beginning of its next regular session after the date of such continuance.

Any cooperative or unit plan of development and operation, which includes lands owned by the United States, shall contain a provision whereby authority, limited as therein provided, is vested in the Secretary of the department or departments having jurisdiction over such land to alter or modify from time to time in his discretion the rate of prospecting and development and the quantity and rate of production under said plan. The Secretary of the Interior is authorized whenever he shall deem such action necessary or in the public interest, with the consent of lessee, by order to suspend or modify the drilling or producing requirements of any oil and gas lease not subject to

such a cooperative or unit plan, and no lease shall be deemed to expire by reason of the suspension of production pursuant to any such order.

Whenever it appears to the Secretary of the Interior that wells drilled upon lands not owned by the United States are draining oil or gas from lands or deposits owned in whole or in part by the United States, the Secretary of the Interior is hereby authorized and empowered to negotiate agreements whereby the United States or the United States and its permittees, lessees, or grantees shall be compensated for such drainage, such agreements to be made with the consent of the permittees and lessees affected thereby.

Whenever the average daily production of the oil wells on an entire leasehold or on any tract or portion thereof segregated for royalty purposes shall not exceed ten barrels per well per day, or where the cost of production of oil or gas is such as to render further production economically impracticable the Secretary of the Interior, for the purpose of encouraging the greatest ultimate recovery of oil and in the interest of conservation of natural resources, is authorized to reduce the royalty on future production when in his judgment the wells cannot be successfully operated upon the royalty fixed in the lease. The provision of this paragraph shall apply to all oil and gas leases issued under sections 181 to 194, 201, 202 to 208, 211 to 214, 221, 223 to 229, 241, 251 and 261 to 263 of this title, including those within an approved cooperative or unit plan of development and operation.

Any lease issued after August 21, 1935 under the provisions of this section, except those earned as a preference right as provided in section 223 of this title, shall be subject to cancellation by the Secretary of the Interior after thirty days' notice upon the failure of the lessee to comply with any of the provisions of the lease, unless or until the land covered by any such lease is known to contain valuable deposits of oil or gas. Such notice in advance of cancellation shall be sent the lease owner by registered letter directed to the lease owner's record post-office address, and in case such letter shall be returned as undelivered, such notice shall also be posted for a period of thirty days in the United States Land Office for the district in which the land covered by such lease is situated, or in the event that there is no district land office for such leased land, then in the post office nearest such land. Leases covering lands known to contain valuable deposits of oil or gas shall be canceled only in the manner provided in section 188 of this title. (As amended Aug. 21, 1935, c. 599, § 1, 49 Stat. 676.)

§ 236a. Lands in naval petroleum reserves and naval oil-shale reserves; effect of other laws. That nothing in sections 185, 221, 223, 223a of this title and this section shall be construed as affecting any lands within the borders of the naval petroleum reserves and naval oil-shale reserves or agreements concerning operations thereunder or in relation to the same, but the Secretary of the Navy is hereby authorized, with the consent of the President, to enter into agreements such as those provided for under section 226 of this title, which agreement shall not, unless expressed therein, operate to extend the terms of any lease affected thereby. (Aug. 21, 1935, c. 599, § 3, 49 Stat. 679.)



## TITLE 31.—MONEY AND FINANCE

### Chapter 2.—AUDIT AND SETTLEMENT OF ACCOUNTS

#### § 75. Regulations for carrying out provisions.

The words "as pertains to his duties" should be inserted after "title" in line 5.

### Chapter 8.—COINS, COINAGE AND CURRENCY

#### COINS AND COINAGE

#### § 320. Recoinage of uncurrent subsidiary silver coins.

The word "to" in line 5 should read "shall"

#### § 382. Silver 50 cent pieces in commemoration of the two hundredth anniversary of the birth of Daniel Boone.

Act August 26, 1935, c. 696, 49 Stat. 868, provided for a change in the design of the coins provided for by this section.

§ 384. Silver 50-cent pieces in connection with California-Pacific International Exposition. To indicate the interest of the Government of the United States in the fulfillment of the ideals and purposes of the California-Pacific International Exposition, there shall be coined by the Director of the Mint silver 50-cent pieces to the number of not more than 250,000, of standard weight and fineness and of a special appropriate design to be fixed by the Director of the Mint, with the approval of the Secretary of the Treasury, but the United States shall not be subject to the expense of making the models for master dies or other preparations for this coinage.

The coins herein authorized shall be issued at par and only upon the request of the California-Pacific International Exposition Company or its duly authorized agent.

Such coins may be disposed of at part or at a premium by said Exposition and all proceeds shall be used in furtherance of the California-Pacific International Exposition projects.

All laws now in force relating to the subsidiary silver coins of the United States and the coining or striking of the same; regulating and guarding the process of coinage; providing for the purchase of material, and for the transportation, distribution, and redemption of the coins; for the prevention of debasement or counterfeiting; for security of the coin; or for any other purposes, whether said laws are penal or otherwise, shall, so far as applicable, apply to the coinage herein directed. (May 3, 1935, c. 90, §§ 1-4, 49 Stat. 174.)

§ 385. Silver 50-cent pieces in commemoration of one hundred and fiftieth anniversary of founding of city of Hudson, New York, and three hundredth anniversary of founding of city of Providence, Rhode Island. In commemoration of the one hundred and fiftieth anniversary of the founding of the city of Hudson, New York, there shall be coined by the Director of the Mint ten thousand silver 50-cent pieces, and in commemoration of the three hundredth anniversary of the founding of the city of Providence, Rhode Island, there shall be coined by the Director of the Mint, fifty thousand silver 50-cent pieces, in each case such coins to be of standard size, weight, and fineness of a special appropriate design to be fixed by the Director of the Mint, with the approval of the Secretary of the Treasury, but the United States shall not be subject to the expense of making the models for master dies or other preparations for this coinage.

Coins commemorating the founding of the city of Hudson, New York, shall be issued at par, and only upon the request of the committee, person, or persons duly authorized by the mayor of the city of Hudson, New York, and the coins commemorating the founding of the city of Providence, Rhode Island, shall be issued at par and only upon the request of the Providence Tercentenary Committee.

Such coins may be disposed of at par or at a premium by the committee, person, or persons duly authorized in this section, and all proceeds shall be used in furtherance of the commemoration of the founding of the cities of Hudson, New York, and Providence, Rhode Island, respectively.

All laws now in force relating to the subsidiary silver coins, of the United States and the coining or striking of the same; regulating and guarding the process of coinage; providing for the purchase of material, and for the transportation, distribution, and redemption of the coins; for the prevention of debasement or counterfeiting; for the security of the coin; or for any other purposes, whether said laws are penal or otherwise, shall, so far as applicable, apply to the coinage herein directed.

The coins authorized herein shall be issued in such numbers, and at such times as they may be requested by the committee, person or persons duly authorized by said mayor of Hudson, New York, in the case of coins issued in commemoration of the founding of that city, and by the Providence Tercentenary Committee in the case of coins commemorating the founding of the city of Providence, Rhode Island, and in each case only upon payment to the United States of the face value of such coins. (May 2, 1935, c. 88, §§ 1-5, 49 Stat. 465, 466.)

§ 386. Silver 50-cent pieces in commemoration of four hundredth anniversary of Expedition of Cabeza de Vaca and opening Old Spanish Trail. To indicate the interest of the Government of the United States in commemorating the four hundredth anniversary of the Expedition of Cabeza de Vaca and the opening of the Old Spanish Trail, there shall be coined by the Director of the Mint silver 50-cent pieces to the number of not more than ten thousand, of standard weight and fineness and of a special appropriate design to be fixed by the Director of the Mint, with the approval of the Secretary of the Treasury, but the United States shall not be subject to the expense of making the models for master dies or other preparations for this coinage.

The coins herein authorized shall be issued at par and only upon the request of the chairman of the El Paso Museum Committee.

Such coins may be disposed of at par or at a premium by said committee and all proceeds shall be used in furtherance of the El Paso Museum.

All laws now in force relating to the subsidiary silver coins of the United States and the coining or striking of the same; regulating and guarding the process of coinage; providing for the purchase of material, and for the transportation, distribution, and redemption of the coins; for the prevention of debasement or counterfeiting; for security of the coin; or for any other purposes, whether said laws are penal or otherwise, shall, so far as applicable, apply to the coinage herein directed. (June 5, 1935, c. 176, 49 Stat. 324.)

### Chapter 10.—THE PUBLIC MONEYS

§ 529b. Advances for Bureau of Customs in foreign countries. Section 529 shall not apply to payments



made for the Bureau of Customs in foreign countries. (May 14, 1935, c. 110, § 1, 49 Stat. 218.)

§ 551. Use of public moneys for expenses of conventions or other assemblages. Unless specifically provided by law, no moneys from funds appropriated for any purpose shall be used for the purpose of lodging, feeding, conveying, or furnishing transportation to, any conventions or other form of assemblage or gathering to be held in the District of Columbia or elsewhere. This section shall not be construed to prohibit the payment of expenses of any officer or employee of the Government in the discharge of his official duties. (Feb. 2, 1935, c. 4, 49 Stat. 19.)

## Chapter 12.—THE PUBLIC DEBT

### § 745. Payment, interest, and exemption from taxes of Panama Canal bonds.

The first part of this section should read as follows: "Bonds issued under authority of section 39 of the Act of August 5, 1909 (chapter 6, Thirty-sixth Statutes, page 117), shall be payable at such times within fifty years after the date of issue as the Secretary of the Treasury, \* \* \*."

§ 752. Second, third, and fourth Liberty loans; amount; bonds. The Secretary of the Treasury, with the approval of the President, is hereby authorized to borrow, from time to time, on the credit of the United States for the purposes of sections 747, 752 to 754, 757, 758, 760, 764 to 766, 769, 771, 773, 774 and 801 of this title, to provide for the purchase, redemption, or refunding, at or before maturity, of any outstanding bonds, notes, certificates of indebtedness, or Treasury bills of the United States, and to meet expenditures authorized for the national security and defense and other public purposes authorized by law, such sum or sums as in his judgment may be necessary, and to issue therefor bonds of the United States: *Provided*, That the face amount of bonds issued under this section and section 757 of this title shall not exceed in the aggregate \$25,000,000,000 outstanding at any one time. (As amended Feb. 4, 1935, c. 5, § 1, 49 Stat. 20.)

§ 753. United States notes—(a) Authority to issue; amount; forms and denominations; interest; payment and redemption. In addition to the bonds and certificates of indebtedness and war-savings certificates authorized by sections 747, 752 to 754, 757, 758, 760, 764 to 766, 769, 771, 773, 774 and 801 of this title, the Secretary of the Treasury, with the approval of the President, is authorized, subject to the limitation imposed by section 757b of this title, to borrow from time to time on the credit of the United States for the purposes of said sections, to provide for the purchase, redemption, or refunding, at or before maturity, of any outstanding bonds, notes, certificates of indebtedness, or Treasury bills of the United States, and to meet public expenditures authorized by law, such sum or sums as in his judgment may be necessary and to issue therefor notes of the United States at not less than par (except as provided in section 754b of this title) in such form or forms and denomination or denominations, containing such terms and conditions, and at such rate or rates of interest, as the Secretary of the Treasury may prescribe, and each series of notes so issued shall be payable at such time not less than one year nor more than five years from the date of its issue as he may prescribe, and may be redeemable before maturity (at the option of the United States) in whole or in part, upon not more than one year's nor less than four months' notice, and under such rules and regulations and during such period as he may prescribe. (As amended Feb. 4, 1935, c. 5, § 4, 49 Stat. 20.)

§ 754. Second and third Liberty loans; certificates of indebtedness and Treasury bills—(a) Authority to issue additional amount; terms and conditions; payment and redemption; acceptance for foreign obligations. In addition to the bonds and notes authorized by sections 752, 753 and 757c of this title the Secretary of the Treasury is authorized, subject to

the limitation imposed by section 757b of this title, to borrow from time to time, on the credit of the United States, for the purposes of sections 752 to 754, 757, 758, 760, 764 to 766, 769, 771, 773, and 774 of this title, to provide for the purchase, redemption, or refunding, at or before maturity, of any outstanding bonds, notes, certificates of indebtedness or Treasury bills of the United States, and to meet public expenditures authorized by law, such sum or sums as in his judgment may be necessary, and to issue therefor (1) certificates of indebtedness of the United States at not less than par (except as provided in section 754b of this title) and at such rate or rates of interest, payable at such time or times as he may prescribe; or, (2) Treasury bills on a discount basis and payable at maturity without interest. Treasury bills to be issued hereunder shall be offered for sale on a competitive basis, under such regulations and upon such terms and conditions as the Secretary of the Treasury may prescribe, and the decisions of the Secretary in respect of any issue shall be final. Certificates of indebtedness and Treasury bills issued hereunder shall be in such form or forms and subject to such terms and conditions, shall be payable at such time not exceeding one year from the date of issue, and may be redeemable before maturity upon such terms and conditions as the Secretary of the Treasury may prescribe. Treasury bills issued hereunder shall not be acceptable before maturity in payment of interest or of principal on account of obligations of foreign governments held by the United States of America. (As amended Feb. 4, 1935, c. 5, §§ 2, 3, 49 Stat. 20.)

§ 757b. Limitation on obligations issued under second Liberty loan. The face amount of certificates of indebtedness and Treasury bills authorized by section 754 of this title, certificates of indebtedness authorized by section 755 of this title, and notes authorized by section 753 of this title shall not exceed in the aggregate \$20,000,000,000 outstanding at any one time. (Sept. 24, 1917, c. 56, § 21, as added Feb. 4, 1935, c. 5, § 5, 49 Stat. 21.)

§ 757c. United States savings bonds—(a) Authority to issue; use of proceeds. The Secretary of the Treasury, with the approval of the President, is authorized to issue, from time to time, through the Postal Service, or otherwise, bonds of the United States to be known as "United States Savings Bonds." The proceeds of the Savings Bonds shall be available to meet any public expenditures authorized by law and to retire any outstanding obligations of the United States bearing interest or issued on a discount basis. The various issues and series of the Savings Bonds shall be in such forms, shall be offered in such amounts within the limits of section 752 of this title and shall be issued in such manner and subject to such terms and conditions consistent with subsections (b) and (c) hereof, and including any restriction on their transfer, as the Secretary of the Treasury may from time to time prescribe.

(b) Issuance on discount basis; terms and conditions; limitation on amount held by one person. Each Savings Bond shall be issued on a discount basis to mature not less than ten nor more than twenty years from the date as of which the bond is issued, and provision may be made for redemption before maturity upon such terms and conditions as the Secretary of the Treasury may prescribe: *Provided*, That the issue price of Savings Bonds and the terms upon which they may be redeemed prior to maturity shall be such as to afford an investment yield not in excess of three per centum per annum, compounded semiannually. The denominations of Savings Bonds shall be in terms of their maturity value and shall not be less than \$25. It shall not be lawful for any one person at any one time to hold Savings Bonds issued during any one calendar year in an aggregate amount exceeding \$10,000 (maturity value).

(c) Exemption from taxation; circulation privilege. The provisions of section 747 of this title (relating to the exemptions from taxation both as to

principal and as to interest of bonds issued under authority of section 752 of this title, as amended), shall apply as well to the Savings Bonds; and, for the purposes of determining taxes and tax exemptions, the increment in value represented by the difference between the price paid and the redemption value received (whether at or before maturity) shall be considered as interest. The Savings Bonds shall not bear the circulation privilege.

(d) **Appropriation for expenses.** The appropriation for expenses provided by sections 760 and 761 of this title, shall be available for all necessary expenses under this section; and the Secretary of the Treasury is authorized to advance, from time to time, to the Postmaster General from such appropriation such sums as are shown to be required for the expenses of the Post Office Department, in connection with the handling of the bonds issued under this section.

(e) **Withdrawal of postal savings for purchase of savings bonds.** The board of trustees of the Postal Savings System is authorized to permit, subject to such regulations as it may from time to time prescribe, the withdrawal of deposits on less than sixty days' notice for the purpose of acquiring Savings Bonds which may be offered by the Secretary of the Treasury; and in such cases to make payment of interest to the date of withdrawal whether or not a regular interest payment date. No further original issue of bonds authorized by section 760 of this title, shall be made after July 1, 1935.

(f) **Postal employees as fiscal agents for issuance, etc., of bonds.** At the request of the Secretary of the Treasury the Postmaster General, under such regulations as he may prescribe, shall require the employees of the Post Office Department and of the Postal Service to perform, without extra compensation, such fiscal agency services as may be desirable and practicable in connection with the issue, delivery, safe-keeping, redemption, and payment of the Savings Bonds. (Sept. 24, 1917, c. 56, § 22, as added Feb. 4, 1935, c. 5, § 6. 49 Stat. 22.)

§ 773a. **Gold clause securities; payment; exchange of coins or currencies.** The lawful holders of the coins or currencies of the United States shall be entitled to exchange them, dollar for dollar, for other coins or currencies which may be lawfully acquired and are legal tender for public and private debts; and that the owners of the gold clause securities of the United States shall be, at their election, entitled to receive immediate payment of the stated dollar amount thereof with interest to the date of payment or to prior maturity or to prior redemption date, whichever is earlier. The Secretary of the Treasury is authorized and directed to make such exchanges and payments upon presentation hereunder in the manner provided in regulations prescribed by him. The period within which the owners of gold-clause securities shall be

entitled hereunder to receive payment prior to maturity shall expire January 1, 1936, or on such later date, not after July 1, 1936, as may be fixed by the Secretary of the Treasury. (Aug. 27, 1935, 6:00 p. m., c. 780, § 1, 49 Stat. 938.)

§ 773b. **Same; withdrawal of consent to sue United States; exceptions.** Any consent which the United States may have given to the assertion against it of any right, privilege, or power whether by way of suit, counterclaim, set-off, recoupment, or other affirmative action or defense in its own name or in the name of any of its officers, agents, agencies, or instrumentalities in any proceeding of any nature whatsoever (1) upon any gold-clause securities of the United States or for interest thereon, or (2) upon any coin or currency of the United States, or (3) upon any claim or demand arising out of any surrender, requisition, seizure, or acquisition of any such coin or currency or of any gold or silver and involving the effect or validity of any change in the metallic content of the dollar or other regulation of the value of money, is withdrawn: *Provided*, That this section shall not apply to any suit commenced prior to August 27, 1935, or which may be commenced by January 1, 1936, or to any proceeding referred to in this section in which no claim is made for payment or credit in an amount in excess of the face or nominal value in dollars of the securities, coins or currencies of the United States involved in such proceeding. (Aug. 27, 1935, 6:00 p. m., c. 780, § 2, 49 Stat. 939.)

§ 773c. **Same; manner of payment.** Except in cases with respect to which consent is not withdrawn under section 773b of this title, no sums, whether heretofore or hereafter appropriated or authorized to be expended, shall be available for, or expended in, payment upon securities, coins, or currencies of the United States except on an equal and uniform dollar for dollar basis. (Aug. 27, 1935, 6:00 p. m., c. 780, § 3, 49 Stat. 939.)

§ 773d. **Same; definitions of "gold clause" and "securities of the United States."** As used in 773a to 773c of this title the phrase "gold clause" means a provision contained in or made with respect to an obligation which purports to give the obligee a right to require payment in gold, or in a particular kind of coin or currency of the United States, or in an amount in money of the United States measured thereby, declared to be against public policy by section 463 of this title; and the phrase "securities of the United States" means the domestic public debt obligations of the United States, including bonds, notes, certificates of indebtedness, and Treasury bills, and other obligations for the repayment of money, or for interest thereon, made, issued or guaranteed by the United States. (Aug. 27, 1935, 6:00 p. m., c. 780, § 4, 49 Stat. 939.)



## TITLE 32.—NATIONAL GUARD

### Chapter 1.—COMPOSITION, ORGANIZATION, AND CONTROL GENERALLY

#### § 4a. National Guard of United States; establishment; composition.

This section was amended by Act June 19, 1935, c. 277, § 2, 49 Stat. 390, by adding thereto the following paragraph: "And provided further, That in the grades of first lieutenant and second lieutenant the number shall be unlimited."

### Chapter 3.—ARMAMENT, EQUIPMENT, AND SUPPLIES

#### § 42. Care of animals, armament, etc. \* \* \*

*Provided*, That the caretakers hereby authorized to be employed shall not exceed five for any one organization, except heavier-than-air squadrons, for each of which a maximum of thirteen is authorized, who shall be paid by the United States disbursing officer for each State, Territory, and the District of Columbia.

The compensation paid to caretakers who belong to the National Guard, as herein authorized, shall be in addition to any compensation authorized for members of the National Guard under any of the provisions of the National Defense Act.

Under such regulations as the Secretary of War shall prescribe, the material, animals, armament, and equipment, or any part thereof, of the National Guard of any State, Territory, or the District of Columbia or organizations thereof, may be put into a common pool for care, maintenance, and storage; and the employment of caretakers therefor, not to exceed fifteen for any one pool, is hereby authorized.

Caretakers heretofore detailed or employed in pools shall be deemed to have been regularly detailed or employed as such under the law and regulations, and all payments heretofore or hereafter made therefor are hereby validated and authorized.

Commissioned officers of the National Guard shall not be employed as caretakers, except that one such officer not above the grade of captain for each heavier-than-air squadron may be employed. Either enlisted men or civilians may be employed as caretakers, but if there are as many as two caretakers in any organization, one of them shall be an enlisted man.

The Secretary of War shall, by regulations, fix the salaries of all caretakers hereby authorized to be employed and shall also designate by whom they shall be employed. (As amended June 19, 1935, c. 277, § 6, 49 Stat. 392.)

### Chapter 5.—CALL OR DRAFT INTO FEDERAL SERVICE

#### § 81. Authority of President; draft.

This section is amended by Act June 19, 1935, c. 277, § 7, 49 Stat. 392, by striking out after the words "any or all units and" in the first sentence the words "the members thereof" and inserting in lieu thereof the word "members."

§ 81c. Ordering officers to active duty in emergency. To the extent provided for from time to time by appropriations for this specific purpose, the President may order officers of the National Guard of the United States to active duty in an emergency at any time and for the period thereof: *Provided*, That, except in time of a national emergency expressly declared by Congress, no officer of the National Guard of the United

States shall be employed on active duty for more than fifteen days in any calendar year without his own consent. When on such active duty an officer of the National Guard of the United States shall receive the same pay and allowances as an officer of the Regular Army of the same grade and length of active service, and mileage from his home to his first station and from his last station to his home, but shall not be entitled to retirement or retired pay. (June 3, 1916, c. 134, § 38, as amended June 19, 1935, c. 277, § 1, 49 Stat. 391.)

### Chapter 7.—COMMISSIONED OFFICERS

§ 114. Elimination and disposition of officers of the National Guard of the United States. The appointments of officers and warrant officers of the National Guard may be terminated or vacated in such manner as the several States, Territories, and the District of Columbia shall provide by law. Whenever the appointment of an officer or warrant officer of the National Guard of a State, Territory, or the District of Columbia has been vacated or terminated or upon reaching the age of sixty-four, the Federal recognition of such officer shall be withdrawn and he shall be discharged from the National Guard of the United States: *Provided*, That under such regulations as the Secretary of War may prescribe, upon termination of service in the active National Guard, an officer of the National Guard of the United States may, if he makes application therefor, transfer to the inactive National Guard and remain in the National Guard of the United States in the same or lower grade. When Federal recognition is withdrawn from any officer or warrant officer of the National Guard of any State, Territory, or the District of Columbia, as provided in section 115 of this title or upon reaching the age of sixty-four years, he shall thereupon cease to be a member thereof and shall be given a discharge certificate therefrom by the official authorized to appoint such officer. (As amended June 19, 1935, c. 277, § 4, 49 Stat. 391.)

### Chapter 8.—ENLISTED FORCE

#### § 123. Contract and oath of enlistment.

\* \* \* \* \*

The oath of enlistment prescribed in this section may be taken before any officer of the National Guard authorized to administer oaths of enlistment in the National Guard of the several States, Territories, and the District of Columbia, by respective laws thereof. All oaths of enlistment heretofore administered by the officers described above are hereby validated. (As amended June 19, 1935, c. 277, § 3, 49 Stat. 391.)

§ 124. Periods of enlistment in National Guard and National Guard of United States.

"39 Stat. 300" in citation should be "39 Stat. 200"

### Chapter 11.—NATIONAL GUARD BUREAU

§ 172. Appointment and term of office of chief of Bureau; rank, pay, and allowances; right to retirement.

This section was amended by Act June 19, 1935, c. 277, § 5, 49 Stat. 392, by striking out after the words "and shall" in the second sentence of said section the word "not."



## TITLE 33.—NAVIGATION AND NAVIGABLE WATERS

### Chapter 2.—INTERNATIONAL RULES FOR NAVIGATION AT SEA

#### ORDERS

§ 142. Orders to helmsmen. *Art. 32.* All orders to helmsmen shall be given as follows:

“Right Rudder” to mean “Direct the vessel’s head to starboard.”

“Left Rudder” to mean “Direct the vessel’s head to port.” (Aug. 19, 1890, c. 802, § 1, *Art. 32*, as added Aug. 21, 1935, c. 595, § 1, 49 Stat. 668.)

Section 5 of Act August 21, 1935, cited to the text, provided that the Act “shall become fully effective for all ocean and coastwise vessels on January 1, 1936, and for all on the Great Lakes, bays, sounds, harbors, rivers, and lakes other than the Great Lakes of the United States on January 1, 1937.”

### Chapter 3.—NAVIGATION RULES FOR HARBORS, RIVERS, AND INLAND WATERS GENERALLY

#### STEERING AND SAILING RULES AND SIGNALS

§ 203. Steam vessels approaching, meeting, or passing one another; banks obstructing view; leaving dock.

Act of Aug. 21, 1935, c. 595, § 2, 49 Stat. 669, affected Rule VIII by changing the reading of the words “put her helm to port;” to “direct her course to starboard”, in the fifth and eighth lines.

Section 5 of Act August 21, 1935, cited to the text, provided that the Act “shall become fully effective for all ocean and coastwise vessels on January 1, 1936, and for all on the Great Lakes, bays, sounds, harbors, rivers, and lakes other than the Great Lakes of the United States on January 1, 1937.”

#### ORDERS

§ 232. Orders to helmsmen. *Art. 32* All orders to helmsmen shall be given as follows:

“Right Rudder” to mean “Direct the vessel’s head to starboard.”

“Left Rudder” to mean “Direct the vessel’s head to port.” (June 7, 1897, c. 4, § 1, *Art. 32*, as added Aug. 21, 1935, c. 595, § 2, 49 Stat. 669.)

Section 5 of Act August 21, 1935, cited to the text, provided that the Act “shall become fully effective for all ocean and coastwise vessels on January 1, 1936, and for all on the Great Lakes, bays, sounds, harbors, rivers, and lakes other than the Great Lakes of the United States on January 1, 1937.”

### Chapter 4.—NAVIGATION RULES FOR GREAT LAKES AND THEIR CONNECTING AND TRIBUTARY WATERS

#### ORDERS

§ 294. Orders to helmsmen. *Rule 29.* All orders to helmsmen shall be given as follows:

“Right Rudder,” to mean “Direct the vessel’s head to starboard.”

“Left Rudder” to mean “Direct the vessel’s head to port.” (Feb. 8, 1895, c. 64, § 1, *Rule 29*, as added Aug. 21, 1935, c. 595, § 3, 49 Stat. 669.)

Section 5 of Act August 21, 1935, cited to the text, provided that the Act “shall become fully effective for all ocean and coastwise vessels on January 1, 1936, and for all on the Great Lakes, bays, sounds, harbors, rivers, and lakes other than the Great Lakes of the United States on January 1, 1937.”

### Chapter 5.—NAVIGATION RULES FOR RED RIVER OF THE NORTH AND RIVERS EMPTYING INTO GULF OF MEXICO AND TRIBUTARIES

#### ORDERS

§ 352. Orders to helmsmen. *Rule 27.* All orders to helmsmen shall be given as follows:

“Right Rudder” to mean “Direct the vessel’s head to starboard.”

“Left Rudder” to mean “Direct the vessel’s head to port.” (Feb. 19, 1895, c. 102, § 1, *Rule 27*, as added Aug. 21, 1935, c. 595, § 4, 49 Stat. 669.)

Section 5 of Act August 21, 1935, cited to the text, provided that the Act “shall become fully effective for all ocean and coastwise vessels on January 1, 1936, and for all on the Great Lakes, bays, sounds, harbors, rivers, and lakes other than the Great Lakes of the United States on January 1, 1937.”

### Chapter 11.—BRIDGES OVER NAVIGABLE WATERS

§ 503. Tolls; reasonableness; bridges to which provisions not applicable. Tolls for passage or transit over any bridge over any of the navigable waters of the United States, if such bridge is used for purposes of travel or transportation in interstate or foreign commerce, shall be just and reasonable; but the provisions of this section and sections 504 to 507 of this title shall not apply to any bridge subject to the provisions of sections 491 to 498 of this title, nor to any bridge built under the authority of the legislature of the State across rivers or other waterways the navigable portions of which lie wholly within the limits of a single State, nor to any bridge on which the tolls are prescribed by a contract entered into by or with any State or political subdivision thereof, or any municipality. (Aug. 21, 1935, c. 597, § 1, 49 Stat. 670.)

§ 504. Same; determination of reasonableness by Secretary of War; effect of order prescribing toll. The Secretary of War is authorized, either upon complaint or upon his own initiative, to conduct an inquiry at any time for the purpose of determining whether any toll charged for passage or transit over any bridge to which sections 503 to 507 of this title apply is in violation of the provisions of section 503 of this title, and if he finds, after full opportunity for hearing, that such toll is in violation of such provisions he is authorized and empowered to determine and by order to prescribe what will be the just and reasonable toll to be thereafter charged, and after such order takes effect it shall be unlawful to collect a toll for such passage or transit in excess of that so prescribed. Any such order shall take effect upon the expiration of thirty days after its issuance. (Aug. 21, 1935, c. 597, § 2, 49 Stat. 671.)

§ 505. Same; review of order. Any order issued under section 504 of this title may be reviewed by the Court of Appeals of the District of Columbia, or the circuit court of appeals for any judicial circuit in which the bridge in question is wholly or partly located, if a petition for such review is filed within three months after the date such order was issued. The judgment of any such court shall be final, except that it shall be subject to review by the Supreme Court of the United States upon certiorari, in the manner provided in section 347 of Title 28. The review by such courts shall be limited to questions of law, and the findings of fact by the Secretary of War, if supported by substantial evidence, shall be conclusive. Upon such review, such courts shall have power to affirm or, if the order its [is] not in accordance with law, to modify or to reverse the order, with or without remanding the case for a rehearing as justice may require. (Aug. 21, 1935, c. 597, § 3, 49 Stat. 671.)

§ 506. Same; hearings to determine reasonableness; attendance of witnesses; punishment for failure to attend. In the execution of his functions under sections 504 and 505 of this title and this sec-

tion the Secretary of War, or any officer or employee designated by him, is authorized to hold hearings, examine witnesses, and receive evidence at any place designated by him, and to administer oaths and affirmations, and require by subpoena the attendance and testimony of witnesses and the production of books, papers, and documents from any place in the United States. In any case [of] disobedience to any such subpoena the Secretary of War may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of books, papers, and documents. No person shall be excused from attending and testifying or from producing books, papers, and documents in any inquiry under this section and section 504 of this title, or in obedience to any such subpoena, or in any cause or proceeding, criminal or otherwise, based upon or arising under said sections, on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that any individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying. Any person who shall neglect or refuse to attend and testify, or to answer any lawful inquiry, or to produce books, papers, or documents, if in his power to do so, in obedience to a subpoena or lawful requirement under this section, shall, upon conviction thereof, be punished by a fine of not to exceed \$1,000 or by imprisonment for not more than one year, or by both such fine and imprisonment. (Aug. 21, 1935 c. 597, § 4, 49 Stat. 671.)

§ 507. Same; failure to obey order prescribing toll; punishment. In any case where there is in effect a toll prescribed by an order issued under section 504 of this title, for passage or transit over any bridge to which this section and sections 503 to 506 of this title apply, any person who demands or collects a toll for such passage or transit in excess of that so prescribed shall, upon conviction thereof, be punished by a fine of not to exceed \$1,000 or by imprisonment for not more than one year, or by both such fine and imprisonment. (Aug. 21, 1935, c. 597, § 5, 49 Stat. 672.)

## Chapter 12.—RIVER AND HARBOR IMPROVEMENTS GENERALLY

### GENERAL PROVISIONS

§ 546a. Same; information as to configuration of shore line. Every report submitted to Congress in pursuance of any provision of law for preliminary examination and survey looking to the improvement of the entrance at the mouth of any river or at any inlet, in addition to other information which the Congress has directed shall be given, shall contain information concerning the configuration of the shore line and the probable effect thereon that may be expected to result from the improvement having particular reference to erosion and/or accretion for a distance of not less than ten miles on either side of the said entrance. (Aug. 30, 1935, c. 831, § 5, 49 Stat. 1048.)

§ 553a. Same; canals, rivers and harbors. When any land which has been heretofore or may be hereafter purchased or acquired for the improvement of canals, rivers and harbors is no longer needed, or is no longer serviceable, it may be sold in such manner as the Secretary of War may direct, and any moneys received from such sale shall be deposited in the Treasury to the credit of miscellaneous receipts. (Aug. 30, 1935, c. 831, § 7, 49 Stat. 1048.)

§ 570. Default in contract; disposition of amounts collected. Any amounts collected from defaulting contractors or their sureties under contracts entered into in connection with river and harbor or flood-control work prosecuted by the Engineer Department, whether collected in cash or by deduction from amounts otherwise due such contractors, hereafter shall be credited in each case to the appropriation under which the contract was made. (Aug. 30, 1935, c. 831, § 8, 49 Stat. 1048.)

## Chapter 16.—BUREAU OF LIGHTHOUSES AND LIGHTHOUSE SERVICE

### § 714. Transfer of duties of Lighthouse Board.

The words "Act July 1, 1910, c. 301" in line 5 of this section in the Code should read "Act June 17, 1910, c. 301"

## Chapter 17.—COAST AND GEODETIC SURVEY

### GENERAL PROVISIONS

§ 851. Commissioned personnel; relative rank with Navy; retired officers; assistant director.

The proviso of this section was repeated in Act Mar. 22, 1935, c. 39, § 1, 49 Stat. 96.



## TITLE 34.—NAVY

### Chapter 1.—ORGANIZATION GENERALLY GRADES, NUMBER, AND DISTRIBUTION OF LINE AND STAFF

§ 2. Number of commissioned officers of line. The total authorized number of commissioned officers of the active list of the line of the Navy, exclusive of commissioned warrant officers, shall be equal to 4% per centum of the total authorized enlisted strength of the active list, exclusive of the Hospital Corps, prisoners undergoing sentence of discharge, enlisted men detailed for duty with the Naval Militia, and the Flying Corps. (As amended July 22, 1935, c. 402 § 1, 49 Stat. 487.)

Act July 22, 1935, c. 402, § 1, 49 Stat. inserted word "authorized" in first line after word "total" and changed "4 per centum" to read "equal to 4% per centum" in third line.

§ 3. Number of commissioned officers of staff corps. The total authorized number of commissioned officers of the active list of the following staff corps, exclusive of commissioned warrant officers, shall be based on percentages of the total number of commissioned officers of the active list of the line of the Navy as follows:

Supply Corps, 12 per centum; Construction Corps, 5 per centum; Corps of Civil Engineers, 2 per centum; and the total authorized number of commissioned officers of the Medical Corps shall be sixty-five one-hundredths of 1 per centum of the total authorized number of the officers and enlisted men of the Navy and Marine Corps, including midshipmen, Hospital Corps, prisoners undergoing sentence of discharge, enlisted men detailed for duty with the Naval Militia, and the Flying Corps: *Provided*, That hereafter the authorized number of surgeons in the United States Navy be, and it is hereby, increased by one.

Dental Corps: The total authorized number of commissioned officers of the Dental Corps shall be one for each five hundred of the actual number of officers and enlisted men of the Navy and Marine Corps.

Corps of Chaplains: The total authorized number of chaplains and acting chaplains in the Navy shall be one to each one thousand two hundred and fifty of the total personnel of the Navy and Marine Corps as fixed by law, including midshipmen, apprentice seamen, and naval prisoners. (As amended July 22, 1935, c. 402, § 4, 49 Stat. 488.)

§ 4. Distribution of commissioned line officers among grades. The total number of commissioned line officers on the active list at any one time, exclusive of commissioned warrant officers, shall be distributed in the proportion of one in the grade of rear admiral, to four in the grade of captain, to eight in the grade of commander, to fifteen in the grade of lieutenant commander, to thirty in the grade of lieutenant, to forty-two in the grades of lieutenant (junior grade) and ensign, inclusive: *Provided*, That no officer shall be reduced in rank or pay or separated from the active list of the Navy as the result of any computation made to determine the authorized number of officers in the various grades of the line: *Provided further*, That for the purpose of making any computation to determine the authorized number of officers in the various grades of the line above the grade of lieutenant (junior grade), the number of commissioned line officers on the active list, exclusive of commissioned warrant officers, shall, until June 30, 1936, be assumed to be five thousand four hundred and ninety-nine, and after that date any computation to determine the authorized number of officers in the various grades of the line shall be based on the total number of commissioned line officers on the active list at any

one time not below five thousand four hundred and ninety-nine, exclusive of commissioned warrant officers: *Provided further*, That except in time of war, the following numbers, exclusive of additional numbers in grade, in the grades as indicated shall not be exceeded: In the grade of rear admiral, fifty-eight; in the grade of captain, two hundred and forty; in the grade of commander, five hundred and fifteen: *And provided further*, That except in time of war, if any computation made to determine the authorized number of officers in the various grades of the line would, except for the immediately foregoing proviso, give a greater number of rear admirals than fifty-eight, or a greater number of captains than two hundred and forty, or a greater number of commanders than five hundred and fifteen, such excess number shall be carried in the grade of lieutenant commander and an increase in that grade above the 15 per centum of the total number of commissioned officers on the active list at any one time, exclusive of commissioned warrant officers, is hereby authorized for that purpose. (As amended July 22, 1935, c. 402, § 2, 49 Stat. 487.)

Act July 22, 1935, added last three provisos.

§ 12. Appointment of midshipmen as ensigns; number. The President of the United States is authorized, by and with the advice and consent of the Senate, to appoint as ensigns in the line of the Navy all midshipmen who in 1934 and thereafter graduate from the Naval Academy: *Provided*, That all former midshipmen graduated in 1933 who received a certificate of graduation and honorable discharge or who resigned and whether they have since been married or not may, upon their own application, if physically qualified, and under such regulations as the Secretary of the Navy may prescribe, be appointed as ensigns prior to November 1, 1935, by the President and shall take rank next after the junior ensign of the Navy and among themselves in accordance with their proficiency as shown by the order of merit at date of graduation: *And provided further*, That the number of such officers so appointed shall, while in excess of the total number of line officers otherwise authorized by law, be considered in excess of the number of officers in the grade of ensign as determined by any computation, and shall be excluded from any computation made for the purpose of determining the authorized number of line officers in any grade on the active list above the grade of lieutenant (junior grade) until the total number of line officers shall have been reduced below the number otherwise authorized by law. (As amended Aug. 29, 1935, c. 803, 49 Stat. 959.)

§ 13. Transfer and appointment of line officers to staff corps by President. The President of the United States is authorized, by and with the advice and consent of the Senate, to transfer and appoint officers of the line of the Navy, not above the grade of lieutenant commander, to the corresponding grade in the Construction Corps, Civil Engineer Corps, or Supply Corps, without regard to the age of the officers so transferred and appointed. (July 22, 1935, c. 402, § 6, 49 Stat. 490.)

§ 14. Transfer and appointment of staff officers to line by President. The President of the United States is authorized, by and with the advice and consent of the Senate, to transfer and appoint officers of the Staff Corps of the Navy not above the rank of lieutenant commander to the corresponding rank and grade in the line of the Navy and the officers so transferred and appointed shall have the lineal position and precedence in the line which they would have held had they remained in the line or had their original

appointments been in the line. Any officer so transferred and appointed shall be carried as an additional number in the grade in which he is serving and to which he may be promoted July 22, 1935. (July 22, 1935, c. 402, § 7, 49 Stat. 490.)

### SUPPLY CORPS

#### § 61. Qualifications for office of assistant paymaster.

Transfer and appointment of line officers to corps by President, see section 13 of this title.

§ 64. Bonds of pay officers generally. Every officer of the Supply Corps of the United States Navy shall, before entering upon the duties of his office, give good and sufficient bond to the United States, to be approved by the Secretary of the Navy and in such sum as the Secretary may direct, faithfully to account for all public funds and property which he may receive. The Secretary of the Navy may, in his discretion, waive the requirements of this section in the case of officers of the Supply Corps who are not accountable for public funds or public property. (As amended June 6, 1935, c. 181, 49 Stat. 326.)

The second paragraph of the amending act cited to the text provided as follows: "That section 1383 of the Revised Statutes of the United States is hereby amended by striking out the period at the end of the section, inserting in lieu thereof a colon, and by adding the following: 'Provided, That such requirement may, in the discretion of the Secretary of the Navy, be waived in the case of such officers who are not accountable for public funds or public property.'"

### OFFICERS FOR ENGINEERING DUTY

#### § 71. Assignment of line officers to engineering duty.

Transfer and appointment of line officers to corps by President, see section 13 of this title.

§ 71a. Assignment of line and construction corps officers for aeronautical engineering duty. Officers of the line of the Navy, upon application, and with the approval of the Secretary of the Navy, may be designated for the performance of aeronautical engineering duty only. The President of the United States is hereby authorized, by and with the advice and consent of the Senate, to transfer and appoint officers of the Construction Corps of the Navy who are applicants to the corresponding rank and grade in the line of the Navy for the performance of aeronautical engineering duty only. Each officer of the Construction Corps so transferred and appointed shall have the lineal position and precedence in the line which he would have held had he remained in the line or had his original appointment been in the line except that no officer shall have his existing relative rank, precedence, or seniority in the Construction Corps altered by such transfer. Any officer of the Construction Corps so transferred and appointed and any line officer designated for the performance of aeronautical engineering duty only shall be carried as an additional number in the grade in which he is serving, and to which he may hereafter be promoted, and except as otherwise provided in this section, the performance of duty, succession to command, selection for promotion, examination for promotion, promotion, and retirement of such officers shall be governed by the provisions of existing law and of laws hereafter enacted relating to line officers assigned to engineering duty only. (June 5, 1935, c. 175, 49 Stat. 323.)

### CONSTRUCTION CORPS

#### § 83. Transfer of line officers to corps.

Transfer and appointment of line officers to corps by President, see section 13 of this title.

### Chapter 3.—GENERAL PROVISIONS RELATING TO OFFICERS

§ 217a. Administration of oaths; notarial and consular powers. In places beyond the continental limits of the United States where the Navy or Marine Corps

is serving, such officers of the Navy or Marine Corps as are authorized to administer oaths for the purposes of the administration of naval justice and for other purposes of naval administration shall have the general powers of a notary public or of a consul of the United States in the administration of oaths, the execution and acknowledgment of legal instruments, the attestation of documents, and the performance of all other notarial acts. (Apr. 25, 1935, c. 81, 49 Stat. 161.)

§ 217b. Administration of oaths by clerks and employees. Chief clerks and inspectors attached to the office of inspectors of naval material, chief clerks attached to field services under the Naval Establishment and to navy yards, naval stations, and Marine Corps posts and stations, and such other clerks and employees attached to offices of inspectors of naval material, field services, naval stations, navy yards, and Marine Corps posts and stations, as may be designated by the Secretary of the Navy, are authorized to administer any oath required or authorized by any law of the United States, or regulation promulgated thereunder, relating to any claim against or application to the United States of officers and employees under the Naval Establishment; said persons so authorized to administer the aforesaid oaths are also authorized to administer oaths of office to officers and employees under the Naval Establishment, but no compensation or fee shall be demanded or accepted for administering any such oath or oaths. (Apr. 25, 1935, c. 83, 49 Stat. 162.)

### Chapter 5.—PROMOTION AND ADVANCEMENT

#### DISTRIBUTION AND PROMOTION OF COMMISSIONED OFFICERS

§ 286a. Same; captains, commanders and lieutenant commanders; eligibility for promotion; Naval Academy graduates; precedence over non-graduates. Except as provided in section 286e of this title, captains, commanders, and lieutenant commanders, who shall not have been recommended for promotion to the next higher grade by the report of a line selection board as approved by the President prior to the completion of thirty-five, twenty-eight, or twenty-one years, respectively, of commissioned service in the Navy, shall be ineligible for consideration by a line-selection board, and any officer in said grades shall likewise be ineligible for consideration who on June 30 of the calendar year of the convening of the board shall have had less than four years' service in his grade: *Provided*, That the term "service in his grade" shall be construed to include service on the promotion list for his grade: *Provided further*, That the commissioned service of Naval Academy graduates, for the purpose of this section only, shall be computed from June 30 of the calendar year in which the class in which they graduated completed its academic course, or, if its academic course was more or less than four years, from June 30 of the calendar year in which it would have completed an academic course of four years: *Provided further*, That except as provided in section 286e of this title, officers of any grade commissioned in the line of the Navy from sources other than the Naval Academy, shall become ineligible for consideration by a selection board when the members of the Naval Academy class next junior to them at the date of their original permanent commission as ensign or above become ineligible for consideration under the provisions of this section. (As amended July 22, 1935, c. 402, § 5, 49 Stat. 489.)

Act July 22, 1935, c. 402, § 5, amended section by inserting the first proviso.

§ 286i. Promotions; commissioned officers of rank of captain and below; eligibility for promotion, Naval Academy graduates; precedence over non-graduates. After June 30, 1936, lieutenants and lieutenants (junior grade) who shall not have been recommended for promotion to the next higher grade by the report of a line selection board as approved by

the President shall, on and after June 30 next succeeding the date of the approval of said line selection board, if they have completed fourteen or seven years, respectively, of commissioned service, be carried as additional numbers in grade, but shall be included in the authorized number of commissioned officers of the active list of the line of the Navy in any grade to which later promoted. That section 286a of this title is extended to officers below the rank of lieutenant commander, so that the length of service therein prescribed shall be twenty-one years for lieutenants and fourteen years for lieutenants (junior grade): *Provided*, That lieutenants with less than twenty-one years commissioned service shall become ineligible for promotion on June 30 of the fiscal year in which they attain the age of forty-five years: *Provided further*, That no officer of said rank shall become so ineligible prior to June 30, 1936: *And provided further*, That the restriction on the number of involuntary transfers in any fiscal year to the retired list prescribed in section 286e of this title, shall not apply to the grade of lieutenant and lieutenant (junior grade). (As amended July 22, 1935, c. 402, § 3, 49 Stat. 488.)

Act July 22, 1935, inserted first proviso and changed date in second proviso.

#### EQUALIZATION OF PROMOTION OF STAFF OFFICERS WITH LINE OFFICERS

§ 348c. Precedence of officers; running mates. All staff officers in the Navy, when of the same rank as their running mates or of the rank for which their running mates have been selected, shall take precedence with all other line and staff officers of the same rank from the dates stated in the commissions or which in due course will be stated in the commissions of their running mates in said rank, and ahead of all line officers junior to their respective running mates. Such staff officers of a higher rank than the rank held by their running mates until their running mates have been selected for such higher rank shall take precedence with all line and staff officers of the rank then held by them in accordance with the date stated in the commission of the junior line officer in such higher rank; staff officers of a lower rank than the rank held by their running mates shall take precedence with all line and staff officers of the same rank in accordance with the dates stated in the commissions that had been held by their running mates in such lower rank, and ahead of all line officers in such rank who were junior therein to their respective running mates: *Provided*, That except as otherwise provided herein, officers having the same rank and the same date of precedence in that rank shall take precedence in the following order: (a) Line officers, (b) medical officers, (c) officers of the supply corps, (d) chaplains, (e) naval constructors, (f) civil engineers, (g) dental officers: *Provided further*, That staff officers assigned running mates in accordance with sections 348 to 348t of this title, if thereafter assigned new running mates, shall have with respect to other staff officers who also have as their running mates the new running mates so assigned, the precedence held by them prior to the assignment of such new running mates. (As amended Aug. 5, 1935, c. 439, § 11, 49 Stat. 532.)

#### § 348i. New running mate on promotion of old. [Repealed]

This section (June 10, 1926, c. 529, § 10, 44 Stat. 720) was repealed by Act Aug. 5, 1935, c. 439, § 10, 49 Stat. 532. See section 349i of this title, which relates to similar matter.

§ 349. Application of laws for advancement of staff officers to advancement to lieutenant commander and lieutenant; recommendations of selection board. The provisions of law existing on Aug. 5, 1935 with reference to advancement in rank by selection in the Staff Corps are hereby extended to include and authorize advancement to the ranks of lieutenant commander and lieutenant of officers of the next lower

ranks who are eligible for consideration by a selection board. Each selection board appointed to recommend staff officers of the ranks of lieutenant and lieutenant (junior grade) for advancement, shall recommend all the eligible officers of said ranks who in the opinion of at least two-thirds of the members of such board are fitted to assume the duties of the next higher rank. (Aug. 5, 1935, c. 439, § 1, 49 Stat. 530.)

§ 349a. Selection boards; composition. Boards for the selection of staff officers for recommendation for advancement to the ranks of lieutenant commander and lieutenant shall be composed of not less than six nor more than nine officers above the rank of commander on the active or retired list of the Staff Corps concerned: *Provided*, That in case there be not a sufficient number of staff officers of the corps concerned legally or physically capacitated to serve on a selection board of such corps as herein provided, officers of the line on the active list above the rank of commander may be detailed to duty on such board to constitute the required minimum membership. (Aug. 5, 1935, c. 439, § 2, 49 Stat. 530.)

§ 349b. Eligibility of lieutenant and lieutenant (junior grade) for reconsideration for advancement. Staff officers of the ranks of lieutenant and lieutenant (junior grade) who shall not have been recommended for advancement to the next higher rank by the report of a selection board as approved by the President prior to the completion of fourteen or seven years, respectively, of commissioned service in the Navy, shall be ineligible for consideration by a selection board on June 30 of the current fiscal year: *Provided*, That no such officer shall become ineligible for consideration by reason of length of commissioned service until he shall have been twice considered by a selection board for advancement to the next higher rank. (Aug. 5, 1935, c. 439, § 3, 49 Stat. 530.)

§ 349c. Eligibility of commander and lieutenant commander for reconsideration for advancement. Except as provided in section 349e of this title, staff officers of the ranks of commander and lieutenant commander who shall not have been recommended for advancement by the report of a selection board as approved by the President prior to the completion of twenty-eight or twenty-one years, respectively, of commissioned service in the Navy, shall be ineligible for consideration by a selection board on June 30 of the current fiscal year: *Provided*, That for the purposes of this section, the length of such commissioned service for officers of the ranks of commander and lieutenant commander in the Construction Corps and Civil Engineer Corps shall be thirty or twenty-five years, respectively: *Provided further*, That no staff officer of the rank of commander or lieutenant commander shall become ineligible for consideration by reason of length of service until he shall have been considered by three selection boards for advancement to the next higher rank, at least two of which boards shall have been appointed after Aug. 5, 1935. (Aug. 5, 1935, c. 439, § 4, 49 Stat. 530.)

§ 349d. Transfer of officers ineligible for consideration or unqualified to retired list. All staff officers who have not been recommended for advancement and who, after the completion of the designated periods of service as prescribed for their respective ranks and corps, become ineligible for consideration by a selection board in accordance with sections 349b and 349c of this title, or who, if recommended for advancement, undergo the required examinations for advancement and are found not professionally qualified, shall be transferred to the retired list of the Navy. (Aug. 5, 1935, c. 439, § 5, 49 Stat. 530.)

§ 349e. Retention on active list when number of involuntary transfers exceed certain figures; eligibility for reconsideration. When the number of involuntary transfers in any fiscal year from the ranks of commander and lieutenant commander in the staff corps to the retired list pursuant to section 349d of

this title, exclusive of officers who have failed professionally on examination for advancement to the next higher rank, would otherwise exceed the figures in the following tabulation, the selection board concerned shall designate by name such excess of officers for retention on the active list until the end of the next fiscal year, and officers so designated shall retain their eligibility for selection and advancement during said year: Medical Corps, seven commanders and twelve lieutenant commanders; Supply Corps, four commanders and seven lieutenant commanders; Chaplain Corps, one commander and one lieutenant commander; Construction Corps, two commanders and three lieutenant commanders; Civil Engineer Corps, one commander and one lieutenant commander; Dental Corps, one commander and two lieutenant commanders. If the officers so designated are not recommended for advancement or again designated for retention on the active list, they shall be transferred to the retired list in accordance with the provisions of section 349d of this title. (Aug. 5, 1935, c. 439, § 6, 49 Stat. 531.)

§ 349f. **Special board for designation to active list of excess officers involuntarily transferred.** If at the end of any fiscal year the number of involuntary transfers to the retired list from the ranks of commander or lieutenant commander of the Staff Corps would exceed the limits set forth in section 349e of this title, and there has been no selection board convened during the fiscal year to recommend officers of those ranks for advancement in the Staff Corps concerned, special boards shall be convened by the Secretary of the Navy on or about June 1 preceding the end of the fiscal year to designate by name such excess of officers to be retained on the active list as provided in section 349e of this title. Each such board shall be constituted as provided by law for selection boards for the Staff Corps concerned. (Aug. 5, 1935, c. 439, § 7, 49 Stat. 531.)

§ 349g. **Time of making transfers to retired list; retired pay of transferred officers.** All transfers to the retired list pursuant to section 349d of this title shall be made as of June 30 of the current fiscal year. Officers retired pursuant to said section shall receive pay at the rate of 2½ per centum of their active-duty pay, multiplied by the number of years of service for which they were entitled to credit in computation of their longevity pay on the active list, not to exceed a total of 75 per centum of said active-duty pay: *Provided*, That a fractional year of six months or more shall be considered a full year in computing the number of years of service by which the rate of 2½ per centum is multiplied. (Aug. 5, 1935, c. 439, § 8, 49 Stat. 531.)

§ 349h. **Selection boards; appointment; recommendations for advancement.** As soon as practicable after Aug. 5, 1935, boards for the selection of staff officers for advancement to the ranks of captain and commander shall be appointed by the Secretary of the Navy in accordance with existing law. Each such board shall recommend for advancement to the ranks hereinafter listed in the corps for which it was appointed, from those staff officers of the next lower rank in said corps who are eligible for consideration, such officers, not to exceed the number furnished it by the Secretary of the Navy. The number furnished the boards appointed in execution of this section, in addition to such numbers if any, as would otherwise be furnished such boards as the result of computations required by law for the corps and ranks concerned, shall be: For the Medical Corps, eleven for advancement to the rank of captain and eighteen for advancement to the rank of commander; for the Supply Corps, one for advancement to the rank of captain and ten for advancement to the rank of commander; for the Civil Engineer Corps, one for advancement to the rank of commander; for the Construction Corps, [sic] four for advancement to the rank of captain. If a selection board does not recommend a number of officers for advancement to any rank equal to the number furnished to that board for that rank by

the Secretary of the Navy, the difference between the number actually recommended by the board and the number furnished the board by the Secretary of the Navy may be added by the Secretary of the Navy to the number furnished by him to the next succeeding board. (Aug. 5, 1935, c. 439, § 9, 49 Stat. 531.)

§ 349i. **New running mate on promotion of old.** If the running mate of a staff officer be promoted to a higher rank and such staff officer be considered by a selection board for such rank but fails to be selected for advancement thereto, by the report of such board as approved by the President, such staff officer shall have assigned as his new running mate the line officer not promoted who was next senior to his former running mate in the rank in which the staff officer remains; if there remain in that rank no line officer who was senior therein to such former running mate, such staff officer shall not have assigned a new running mate, but shall retain his former running mate who has been promoted: *Provided*, That if subsequently selected such staff officer when advanced to the higher rank, shall have assigned as his running mate that line officer who would have been his running mate had said staff officer been recommended by the selection board which first considered him for the higher rank; except that if the running mate who would be so assigned him be senior to the running mate of an officer in his own staff corps made next senior to him in the higher rank, as determined by the order of their selection for advancement thereto, the running mate assigned him shall be that officer who had been assigned as the running mate of said next senior staff officer on the latter's advancement, and officers of the same staff corps thereby having the same running mate shall have precedence in said higher rank as determined by the order of their selection for advancement thereto: *Provided further*, That those officers of the staff corps with the rank of captain, who when eligible for consideration by a selection board for the rank of rear admiral, are not selected, shall retain their running mates; and if subsequently advanced to the rank of rear admiral shall have running mates assigned as required by the proviso next preceding. The provisions of this section shall be applicable to the cases of all staff officers now on the active list who have been advanced or have been eligible for consideration by a selection board for advancement to the rank of commander and above since June 10, 1926: *And provided further*, That no officer shall, by virtue of this section, receive any increased pay or allowance for any period prior to Aug. 5, 1935. (Aug. 5, 1935, c. 439, § 10, 49 Stat. 532.)

§ 349j. **Increasing number furnished selection board to fill vacancies because of removal from active list.** If any staff officer who has been recommended for advancement to the rank of captain or commander by the report of a selection board as approved by the President fails to receive such advancement by reason of failure to qualify upon examination therefor or because of his removal from the active list for any cause, the number to be furnished the next ensuing selection board for the corps and rank concerned shall be increased accordingly. (Aug. 5, 1935, c. 439, § 12, 49 Stat. 533.)

§ 349k. **Laws repealed.** All laws or parts of laws, so far as they are inconsistent with or in conflict with the provisions of sections 349 to 349j of this title, are hereby repealed. (Aug. 5, 1935, c. 439, § 13, 49 Stat. 533.)

## Chapter 6.—GRATUITIES, MEDALS, AND OTHER INSIGNIA OF HONOR; MEDAL OF HONOR ROLL; BADGES

### GRATUITIES, MEDALS, ETC.

§ 358a. **Facsimiles and ribbons; wearing in lieu of medals.** Authority is granted to personnel of the Navy and Marine Corps to wear in lieu of commemorative or special medals awarded to them a minia-

ture facsimile of such medal and a ribbon symbolic of the award thereof under such regulations as the Secretary of the Navy may prescribe. (Apr. 25, 1935, c. 82, 49 Stat. 162.)

#### Chapter 7.—RETIREMENT

##### GENERAL PROVISIONS AS TO RETIREMENT OF OFFICERS

§ 396a. **Acting assistant surgeons.** The acting assistant surgeons of the United States Navy who, on July 17, 1935, have reached the age of seventy years shall be placed on the retired list of the Navy with pay at the rate of three-fourths of their active-duty pay. (July 17, 1935, c. 384, 49 Stat. 482.)

#### Chapter 8.—DETAIL OF OFFICERS AND ENLISTED MEN

##### § 441a. Detail of officers and enlisted men to assist Latin-American Republics.

This section was amended by Act May 14, 1935, c. 109, 49 Stat. 218, by striking out the word "and" preceding the words "Santo Domingo" and inserting after the words "Santo Domingo" the words "and the Commonwealth of the Philippine Islands"

§ 448a. **Detail of officers for foreign service of Department of State.** The President, in his discretion, may assign officers of the Army and the Navy for duty in the courier service of the Department of State and for the inspection of buildings owned or occupied by the United States in foreign countries under the jurisdiction of that Department, and when so assigned they may receive the same traveling expenses as are authorized for officers of the Foreign Service, payable from the applicable appropriations of the Department of State. (Mar. 22, 1935, c. 39, § 1, 49 Stat. 70.)

§ 448b. **Detail of enlisted men to Department of State as custodians of foreign buildings.** The Secretary of the Navy is authorized, upon request by the Secretary of State, to assign enlisted men of the Navy and Marine Corps to serve as custodians, under the immediate supervision of the Secretary of State or the chief of mission, whichever the Secretary of State shall direct, at embassies, legations, or consulates of the United States located in foreign countries. (Mar. 22, 1935, c. 39, § 1, 49 Stat. 72.)

#### Chapter 13.—THE MARINE CORPS

##### DUTIES, POWERS, AND GOVERNMENT OF MARINES; FORMATION INTO COMPANIES AND DETACHMENTS

§ 718. **Administration of oaths; notarial and consular powers.** In places beyond the continental limits of the United States where the Navy or Marine Corps is serving, such officers of the Navy or Marine Corps as are authorized to administer oaths for the purposes of the administration of naval justice and for other purposes of naval administration shall have the general powers of a notary public or of a consul of the United States in the administration of oaths, the execution and acknowledgment of legal instruments, the attestation of documents, and the performance of all other notarial acts. (Apr. 25, 1935, c. 81, 49 Stat. 161.)

#### Chapter 14.—NAVAL AVIATION

Aviation cadets in Naval and Marine Corps Reserves, see sections 861 et seq. of this title.

##### GENERAL PROVISIONS

§ 732a. **Number of tactical and gunnery observers detailed to duty in aircraft.** That exclusive of student aviators and qualified aircraft pilots of the Navy and Marine Corps, the number of tactical and gunnery observers of the Navy and Marine Corps detailed to duty in aircraft and involving actual flying shall hereafter be in accordance with the requirements of naval aviation as determined by the Secretary of the Navy. (July 22, 1935, c. 402, § 8, 49 Stat. 490.)

The second sentence of section 8 of the Act cited to the text provided that so much of section 29 of Title 37 which is inconsistent with or in conflict with this section, in so far as it relates to the Navy and Marine Corps, is repealed.

#### Chapter 15.—RESERVE FORCES AND NAVAL MILITIA

##### AVIATION CADETS IN NAVAL AND MARINE CORPS RESERVE

§ 861. **Grade of cadet created; appointment; term of enlistment; commissions on completion of term.** The grade of aviation cadet is hereby created in the Naval Reserve and Marine Corps Reserve. Aviation cadets shall be appointed by the Secretary of the Navy from male citizens of the United States under such regulations as he may prescribe: *Provided*, That each aviation cadet shall sign an agreement, with the consent of his parent or guardian, if he be a minor, to serve for a continuous period of four years on active duty, unless sooner released: *Provided further*, That the Secretary of the Navy is authorized to discharge at any time any aviation cadet, or to release him from active duty. Aviation cadets shall, if qualified, be eligible after completion of their period of active duty, for commission in the Naval Reserve or in the Marine Corps Reserve, with date of precedence as of date of appointment as aviation cadet. (Apr. 15, 1935, c. 71, § 1, 49 Stat. 156.)

§ 861a. **Pay and allowances.** The pay of aviation cadets while on active duty undergoing training shall be at the rate of \$75 per month, which pay shall include extra pay for flying risk, as provided by law. The pay of aviation cadets while on active duty not undergoing training, shall be at the rate of \$125 per month, which pay shall include extra pay for flying risk, as provided by law. The determination of the Secretary of the Navy as to the period during which aviation cadets are undergoing training shall be conclusive for all purposes. Aviation cadets shall be paid, in addition, a money allowance for subsistence of \$1 per day. While traveling under orders to or from active duty, or while in the performance of such duty, they shall, under such regulations of [sic] the Secretary of the Navy may prescribe, receive transportation, and other necessary expenses incident to such travel, or cash in lieu thereof: *Provided*, That when traveling by air under competent orders, they shall receive the same allowances for traveling expenses as are now or may hereafter be authorized by law for officers of the Navy. (Apr. 15, 1935, c. 71, § 2, 49 Stat. 157.)

§ 861b. **Uniforms and equipment.** Aviation cadets shall, while undergoing training, be issued necessary uniforms and equipment at Government expense. Upon first assignment to duty after the completion of training, aviation cadets shall, in addition, be paid a uniform allowance of \$150. (Apr. 15, 1935, c. 71, § 3, 49 Stat. 157.)

§ 861c. **Laws governing Naval and Marine Reserves applicable to cadets; rank.** Aviation cadets shall, except as otherwise provided in this Act, be subject to all the laws and regulations prescribed for other members of the Naval Reserve or the Marine Corps Reserve. They shall take precedence next before warrant officers of the Naval Reserve or Marine Corps Reserve: *Provided*, That when aviation cadets contract sickness or disease or suffer injury in line of duty while performing active duty, they may, in the discretion of the Secretary of the Navy, be retained on such active-duty status beyond the specified date of termination thereof. (Apr. 15, 1935, c. 71, § 4, 49 Stat. 157.)

§ 861d. **Government life insurance.** During their period of active duty aviation cadets will be issued Government life insurance in the amount of \$10,000, the premiums on which shall be paid out of current appropriations as provided in section 861f of this title. Upon discharge or upon completion of active duty, aviation cadets will have the option of continuing such policies at their own expense. (Apr. 15, 1935, c. 71, § 5, 49 Stat. 157.)

§ 861e. **Additional payment on release from active duty.** Aviation cadets of the Naval Reserve and Marine Corps Reserve shall, upon release from a pe-

riod of active duty of four years or more be paid a lump sum of \$1,500, which sum shall be in addition to any pay and allowances which they may otherwise be entitled to receive. (Apr. 15, 1935, c. 71, § 6, 49 Stat. 157.)

§ 861f. **Funds available for pay and allowances and insurance premiums.** The pay and allowances of aviation cadets of the Naval Reserve and Marine Corps Reserve and the premiums on their life insurance shall be paid from the current appropriations "Naval Reserve" and "Pay, Marine Corps", respectively. (Apr. 15, 1935, c. 71, § 7, 49 Stat. 157.)

**Chapter 16.—PAY, EMOLUMENTS, AND ALLOWANCES OF PERSONNEL OF NAVY AND MARINE CORPS**

**GENERAL PROVISIONS AS TO OFFICERS AND ENLISTED MEN**

§ 883. No payment to be made to officers employed by contractors. After July 22, 1935, no payment shall

be made from appropriations made by Congress to any officer in the Navy or Marine Corps on the active list while such officer is employed, after June 30, 1897, by any person or company furnishing naval supplies or war materials to the Government; and such employment is hereby made unlawful after said date: *Provided*, That no payment shall be made from appropriations made by Congress to any retired officer in the Navy or Marine Corps who for himself or for others is engaged in the selling of, contracting for the sale of, or negotiating for the sale of, to the Navy or the Navy Department, any naval supplies or war material. (As amended July 22, 1935, c. 402, § 9, 49 Stat. 490.)

**MILEAGE AND TRAVEL ALLOWANCE**

§ 896b. "Permanent change of station" in section 896 defined. The words "permanent change of station" as used in section 896 of this title, shall be held to include the home of an officer or man to which he is ordered in connection with retirement. (June 24, 1935, c. 291, § 3, 49 Stat. 421.)

## TITLE 36.—PATRIOTIC SOCIETIES AND OBSERVANCES

### Chapter 8.—AMERICAN BATTLE MONUMENTS COMMISSION

§ 121a. Delegation of authority. The Commission may delegate to its chairman, secretary, or officials in charge of either its Washington or Paris offices, under such terms and conditions as it may prescribe, such of

its authority as it may deem necessary and proper. (Feb. 2, 1935, c. 3, § 1, 49 Stat. 7.)

§ 122. Expenses of Army officers serving on commission.

Repeated, Act Feb. 2, 1935, c. 3, § 1, 49 Stat. 7.

§ 135. Power to contract for work in Europe.

Repeated, Act Feb. 2, 1935, c. 3, § 1, 49 Stat. 7.





## TITLE 37.—PAY AND ALLOWANCES (ARMY, NAVY, MARINE CORPS, COAST GUARD, COAST AND GEODETIC SURVEY, AND PUBLIC HEALTH SERVICE)

§ 3a. Same; credit of service rendered subsequent to June 30, 1932. Notwithstanding the suspension during the fiscal years 1933, 1934, and 1935 of the longevity increases provided for in section 3 of this title the personnel (active or retired) so affected shall be credited with service rendered subsequently to June 30, 1932, in computing their active or retired pay accruing subsequently to June 30, 1935: *Provided*, That this section shall not be construed as authorizing the payment of back longevity pay for the fiscal years 1933, 1934, and 1935 which would have been paid during such years but for the suspension aforesaid. (June 13, 1935, c. 224, 49 Stat. 339.)

§ 9a. Value of subsistence allowance. From and after July 1, 1935, the value of one subsistence allowance, as that term is used in section 9 of this title,

shall be and remain fixed at 60 cents per day. (Apr. 9, 1935, c. 54, Title I, 49 Stat. 125.)

§ 10a. Room rate for computing rental allowance. From and after July 1, 1935, the rate for one room for the purpose of computing the money allowance for rental of quarters authorized in section 10 of this title shall be and remain fixed at \$20 per month. (Apr. 9, 1935, c. 54, Title I, 49 Stat. 125.)

§ 29. Increase of pay of officers, warrant officers, and enlisted men detailed to duty involving flying; number detailed.

This section, insofar as it relates to the Navy and Marine Corps, was repealed by Act July 22, 1935, c. 402, § 8, 49 Stat. 490.  
See section 732a of Title 34.



## TITLE 38.—PENSIONS, BONUSES, AND VETERANS' RELIEF

### Chapter 1a.—CONSOLIDATION AND COORDINATION OF GOVERNMENTAL ACTIVITIES AFFECTING WAR VETERANS

§ 11e. \* \* \*

#### (c) Reports by Administrator of Veterans' Affairs.

The catchline of subsection (c) should read as above.

### Chapter 2.—GENERAL PROVISIONS GOVERNING RIGHT TO PENSION

#### APPLICATION AND DECLARATION OF CLAIMANT; PAYMENT OF PENSIONS

##### § 54. Attachment, levy, or seizure of moneys due pensioners prohibited. [Repealed.]

This section (R. S. 4747; July 3, 1930, c. 863, § 1, 46 Stat. 1016) was repealed by Act Aug. 12, 1935, c. 510, § 3, 49 Stat. 609, which provides as follows: "all Acts inconsistent herewith are hereby modified accordingly. The provisions of this section shall not be construed to prohibit the assignment by any person, to whom converted insurance shall be payable under Part III of this chapter, of his interest in such insurance to any other member of the permitted class of beneficiaries."

#### IRREGULARITIES IN CONNECTION WITH PENSIONS; FRAUDS AND INVESTIGATIONS

##### § 127. Embezzlement by guardian, etc., penalties. [Repealed.]

This section (R. S. §§ 4783, 5486; Feb. 10, 1891, c. 130, 26 Stat. 746) was repealed by Act Aug. 12, 1935, c. 510, § 2, 49 Stat. 609, which also provided as follows: "but any offense committed before the enactment of this Act may be prosecuted and punishment may be inflicted in accordance with the terms of said sections notwithstanding the repeal of said sections."

See section 556a of this title which covers similar subject matter.

### Chapter 7.—WAR WITH SPAIN, PHILIPPINE INSURRECTION, AND CHINESE BOXER REBELLION; VETERANS, WOMEN NURSES, AND DEPENDENTS

#### PENSIONS AS OF AUGUST 13, 1935

§ 368. Reenactment of laws granting pensions in effect March 19, 1933. All laws in effect on March 19, 1933, granting pensions to veterans of the Spanish-American War, including the Boxer Rebellion and the Philippine Insurrection, their widows and dependents, are hereby reenacted into law and such laws shall be effective from and after Aug. 13, 1935. (Aug. 13, 1935, c. 521, § 1, 49 Stat. 614.)

§ 369. Repeal of inconsistent laws. That all Acts and parts of Acts in conflict with or inconsistent with the provisions of section 368 of this title are hereby repealed. (Aug. 13, 1935, c. 521, § 2, 49 Stat. 614.)

### Chapter 10.—WORLD WAR VETERANS' RELIEF

#### PART I—GENERAL

§ 443. United States Government life insurance fund; premiums paid on account of converted insurance credited to; payments from: reserve funds.

"7255 (c)" in note under this section should be "7255 (c)".

§ 445. Actions on claims; jurisdiction; parties; procedure; limitation.

For clarification of definition of "disagreement" in this section, see section 445c of this title

§ 445c. "Disagreement;" clarification of definition in section 445. A denial of a claim for insurance by the Administrator of Veterans' Affairs or any em-

ployee or agency of the Veterans' Administration heretofore or hereafter designated therefor by the Administrator shall constitute a disagreement for the purposes of section 445 of this title. This section is made effective as of July 3, 1930, and shall apply to all suits pending on January 28, 1935, against the United States under the provisions of section 445 of this title, and any suit which has been dismissed solely on the ground that a denial as described in this section did not constitute a disagreement as defined by section 445 of this title may be reinstated within three months from January 28, 1935. (Jan. 28, 1935, c. 1, 49 Stat. 1.)

§ 450. Payments to minors, mental incompetents, or persons under legal disability. (1) Where any payment of compensation, adjusted compensation, pension, emergency officers' retirement pay, or insurance under any Act administered by the Veterans' Administration is to be made to a minor, other than a person in the military or naval forces of the United States, or to a person mentally incompetent, or under other legal disability adjudged by a court of competent jurisdiction, such payment may be made to the person who is constituted guardian, curator, or conservator by the laws of the State of residence of claimant, or is otherwise legally vested with the care of the claimant or his estate: *Provided*, That where in the opinion of the Administrator any guardian, curator, conservator, or other person is acting as fiduciary in such a number of cases as to make it impracticable to conserve properly the estates or to supervise the persons of the wards, the Administrator is authorized to refuse to make future payments in such cases as he may deem proper: *Provided further*, That prior to receipt of notice by the Veterans' Administration that any such person is under such other legal disability adjudged by some court of competent jurisdiction, payment may be made to such person direct: *Provided further*, That where no guardian, curator, or conservator of the person under a legal disability has been appointed under the laws of the State of residence of the claimant, the Administrator shall determine the person who is otherwise legally vested with the care of the claimant or his estate.

(2) Whenever it appears that any guardian, curator, conservator, or other person, in the opinion of the Administrator, is not properly executing or has not properly executed the duties of his trust or has collected or paid, or is attempting to collect or pay, fees, commissions, or allowances that are inequitable or in excess of those allowed by law for the duties performed or expenses incurred, or has failed to make such payments as may be necessary for the benefit of the ward or the dependents of the ward, then and in that event the Administrator is empowered by his duly authorized attorney to appear in the court which has appointed such fiduciary, or in any court having original, concurrent, or appellate jurisdiction over said cause, and make proper presentation of such matters: *Provided*, That the Administrator, in his discretion, may suspend payments to any such guardian, curator, conservator, or other person who shall neglect or refuse, after reasonable notice, to render an account to the Administrator from time to time showing the application of such payments for the benefit of such incompetent or minor beneficiary, or who shall neglect or refuse to administer the estate according to law: *Provided further*, That the Administrator is authorized and empowered to appear or intervene by his duly authorized attorney in any court as an interested party in any litigation instituted by himself or other-

wise, directly affecting money paid to such fiduciary under this section

Authority is granted for the payment of any court or other expenses incident to any investigation or court proceeding for the appointment of any guardian, curator, conservator, or other person legally vested with the care of the claimant or his estate or the removal of such fiduciary and appointment of another, and of expenses in connection with the administration of such estates by such fiduciaries, or in connection with any other court proceeding hereby authorized, when such payment is authorized by the Administrator.

(3) All or any part of the compensation, pension, emergency officers' retirement pay, or insurance the payment of which is suspended or withheld under this section may, in the discretion of the Administrator, be paid temporarily to the person having custody and control of the incompetent or minor beneficiary to be used solely for the benefit of such beneficiary, or in the case of an incompetent veteran, may be apportioned to the dependent or dependents, if any, of such veteran. Any part not so paid and any funds of a mentally incompetent or insane veteran not paid to the chief officer of the institution in which such veteran is an inmate nor apportioned to his dependent or dependents may be ordered held in the Treasury to the credit of such beneficiary. All funds so held shall be disbursed under the order and in the discretion of the Administrator for the benefit of such beneficiary or his dependents. Any balance remaining in such fund to the credit of any beneficiary may be paid to him if he recovers and is found competent, or, if a minor, attains majority, or otherwise to his guardian, curator, or conservator, or, in the event of his death, to his personal representative, except as otherwise provided by law: *Provided*, That payment will not be made to his personal representative if, under the law of the State of his last legal residence, his estate would escheat to the State: *Provided further*, That any funds in the hands of a guardian, curator, conservator, or person legally vested with the care of the beneficiary or his estate, derived from compensation, automatic or term insurance, emergency officers' retirement pay, or pension, payable under this title, which under the law of the State wherein the beneficiary had his last legal residence would escheat to the State, shall escheat to the United States and shall be returned by such guardian, curator, conservator, or person legally vested with the care of the beneficiary or his estate, or by the personal representative of the deceased beneficiary, less legal expenses of any administration necessary to determine that an escheat is in order, to the Veterans' Administration, and shall be deposited to the credit of the current appropriations provided for payment of compensation, insurance, or pension. (As amended Aug. 12, 1935, c. 510, § 1, 49 Stat. 607.)

Sections 4 and 5 of the Act of Aug. 12, 1935, cited to the text, provided as follows:

"Sec. 4 If any provision, sentence, or clause of this Act or the application thereof to any person or circumstances, is held invalid, the remainder of this Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

"Sec. 5 That this Act shall take effect and be in force from and after its passage, but the provisions hereof shall apply to payments made heretofore under any of the Acts mentioned herein."

**§ 454. Assignability and exempt status of compensation, insurance, and maintenance and support allowances.** [Repealed.]

This section (June 7, 1924, c. 320, § 22, 43 Stat. 613) was repealed by Act Aug. 12, 1935, c. 510, § 3, 49 Stat. 609, which provides as follows: "All Acts inconsistent herewith are hereby modified accordingly. The provisions of this section shall not be construed to prohibit the assignment by any person, to whom converted insurance shall be payable under Part III of this chapter, of his interest in such insurance to any other member of the permitted class of beneficiaries."

**§ 454a. Assignability and exempt status of payments of benefits.** Payments of benefits due or to become due shall not be assignable, and such payments made to, or on account of, a beneficiary under any of the laws relating to veterans shall be exempt from

taxation, shall be exempt from the claims of creditors, and shall not be liable to attachment, levy, or seizure by or under any legal or equitable process whatever, either before or after receipt by the beneficiary. Such provisions shall not attach to claims of the United States arising under such laws nor shall the exemption herein contained as to taxation extend to any property purchased in part or wholly out of such payments. (Aug. 12, 1935, c. 510, § 3, 49 Stat. 609.)

Sections 4 and 5 of the Act of Aug. 12, 1935, cited to the text, provided as follows:

"Sec. 4 If any provision, sentence, or clause of this Act or the application thereof to any person or circumstances, is held invalid, the remainder of this Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

"Sec. 5 That this Act shall take effect and be in force from and after its passage, but the provisions hereof shall apply to payments made heretofore under any of the Acts mentioned herein"

## PART II.—COMPENSATION AND TREATMENT

**§ 483a. Payment of claims for unauthorized emergency treatment.** Notwithstanding the provisions of sections 717 and 718 of this title, any claim for unauthorized medical expenses under the provisions of section 483 of this title, wherein claim was duly filed prior to March 20, 1933, may be adjudicated by the Veterans' Administration, and any person found entitled to reimbursement shall be paid the reasonable value of services as prescribed by the said section 483. (Aug. 23, 1935, c. 616, 49 Stat. 724.)

## PART V.—PENALTIES

**§ 556. Embezzlement by guardian, etc.; punishment.** [Repealed.]

This section (June 7, 1924, c. 320, § 505; Mar. 4, 1925, c. 553, § 20, 43 Stat. 1312) was repealed by Act Aug. 12, 1935, c. 510, § 2, 49 Stat. 609, which also provided as follows: "but any offense committed before the enactment of this Act may be prosecuted and punishment may be inflicted in accordance with the terms of said sections notwithstanding the repeal of said sections"

See section 556a of this title which covers similar subject matter

**§ 556a. Improper use, misappropriation or embezzlement of funds by fiduciary; penalty.** Whoever, being a guardian, curator, conservator, committee, or person legally vested with the responsibility or care of a claimant or his estate, or any other person having charge and custody in a fiduciary capacity of money paid under this title, for the benefit of any minor, incompetent, or other beneficiary, shall lend, borrow, pledge, hypothecate, use, or exchange for other funds or property, except as authorized by law, or embezzle or in any manner misappropriate any such money or property derived therefrom in whole or in part and coming into his control in any manner whatever in the execution of his trust, or under color of his office or service as such fiduciary, shall be fined not exceeding \$2,000 or imprisoned for a term not exceeding five years, or both. Any willful neglect or refusal to make and file proper accountings or reports concerning such money or property as required by law, shall be taken to be sufficient evidence, prima facie, of such embezzlement or misappropriation. (Aug. 12, 1935, c. 510, § 2, 49 Stat. 609.)

Sections 4 and 5 of the Act of Aug. 12, 1935, cited to the text provided as follows:

"Sec. 4 If any provision, sentence, or clause of this Act or the application thereof to any person or circumstances, is held invalid, the remainder of this Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

"Sec. 5 That this Act shall take effect and be in force from and after its passage, but the provisions hereof shall apply to payments made heretofore under any of the Acts mentioned herein"

## Chapter 11.—WORLD WAR VETERANS' ADJUSTED COMPENSATION

### PART III.—GENERAL PROVISIONS

**§ 612. Application for benefits; time for making; by whom made; death of veteran after application is made; regulations as to.**

Subdivisions (b) and (c) of this section were amended by Act August 23, 1935, c. 621, § 2, 49 Stat. 729, to take

effect January 2, 1935, by striking out "January 2, 1935" and substituting in lieu thereof "January 2, 1940."

Section 5 of Act August 23, 1935, set out as a note to section 622 of this title, provides among other things that the Act shall not invalidate any payments made or applications received before the enactment of the Act, under the World War Adjusted Compensation Act, as amended.

**§ 621. Loss of application after filing; presumptions; new application.**

This section was amended by Act August 23, 1935, c. 621, § 2, 49 Stat. 729, to take effect as of January 2, 1935, by striking out "January 2, 1935" and substituting in lieu thereof "January 2, 1940."

Section 5 of Act August 23, 1935, set out as a note to section 622 of this title, provides among other things that the Act shall not invalidate any payments made or applications received before the enactment of the Act, under the World War Adjusted Compensation Act, as amended.

**§ 622. Seven years absence of individual from family; presumption of death; right of dependents to adjusted service credit; subsequent evidence that veteran is still alive.**

Subdivision (b) of this section was amended by Act August 23, 1935, c. 621, § 4, 49 Stat. 730, to take effect January 2, 1935, by striking out "January 2, 1935," wherever appearing therein, and substituting in lieu thereof "January 2, 1940."

Section 5 of Act August 23, 1935, c. 621, 49 Stat. 730, Provided as follows: "This Act shall not invalidate any payments made or application received before the enactment of this Act, under the World War Adjusted Compensation Act, as amended. Payments under awards heretofore or hereafter made shall be made to the dependent entitled thereto regardless of change in status, unless another dependent establishes to the satisfaction of the Director a priority of preference under such Act, as amended. Upon the establishment of such preference the remaining installments shall be paid to such dependent, but in no case shall the total payments under title VI of such Act, as amended (except section 608), exceed the adjusted-service credit of the veteran."

**PART VI.—PAYMENTS TO VETERANS' DEPENDENTS**

**§ 662. Same; limitations on payments.**

This section was amended by Act August 23, 1935, c. 621, § 3, 49 Stat. 730, to take effect as of January 2, 1935, by striking out "January 2, 1935," wherever appearing therein, and inserting in lieu thereof "January 2, 1940."

Section 5 of Act August 23, 1935, set out as a note to section 622 of this title, provides among other things that the Act shall not invalidate any payments made or applications received before the enactment of the Act, under the World War Adjusted Compensation Act, as amended.

**§ 664. Application by dependents; how and when made; regulations.**

Subdivision (b) of this section was amended by Act August 23, 1935, c. 621, § 2, 49 Stat. 729, to take effect January 2, 1935, by striking out "January 2, 1935" and substituting in lieu thereof "January 2, 1940."

Section 5 of Act August 23, 1935, set out as a note to section 622 of this title, provides among other things that the Act shall not invalidate any payments made or applications received before the enactment of the Act, under the World War Adjusted Compensation Act, as amended.

**Chapter 12.—PENSION AND VETERANS' RELIEF REORGANIZATION**

**§ 704a. Termination of World War with respect to service in Russia.** Notwithstanding any provisions of sections 701 to 721 of this title, and the veterans' regulations issued pursuant thereto, for the purpose of payment of pension for disability not shown to have been incurred in military or naval service, the World War shall be deemed to have ended April 1, 1920, for those persons who served with the United States military forces in Russia. (Aug. 26, 1935, c. 698, § 1, 49 Stat. 869)

**§ 706. Domiciliary care and hospital treatment.** In addition to the pensions provided in this chapter the Administrator of Veterans' Affairs is authorized under such limitations as he may prescribe, and within the limits of existing Veterans' Administration facilities, to furnish to men discharged from the Army, Navy, Marine Corps, or Coast Guard for disabilities incurred in line of duty or to those in receipt of pension for service-connected disability, and to veterans of any war, including the Boxer Rebellion and the Philippine Insurrection, domiciliary care where they are suffering with permanent disabilities, tuberculosis, or neuro-psychiatric ailments and medical and hospital treat-

ment for diseases or injuries: *Provided*, \* \* \* (As amended Aug. 23, 1935, c. 621, § 1, 49 Stat. 729)

**§ 716. Embezzlement by guardian, etc.; penalty. [Repealed.]**

This section (Mar. 20, 1933, c. 3, Title I, § 16, 48 Stat. 11) was repealed by Act Aug. 12, 1935, c. 510, § 2, 49 Stat. 609, which also provided as follows: "but any offense committed before the enactment of this Act may be prosecuted and punishment may be inflicted in accordance with the terms of said sections notwithstanding the repeal of said sections."

See section 556a of this title which covers similar subject matter.

**§ 724. Benefits applicable to veterans in service in Russia.** Veterans who entered active military service subsequent to November 11, 1918, and who served with the United States military forces in Russia prior to April 2, 1920, and their dependents, shall be entitled to the benefits of sections 471a, 473a, 501a, 511a, 706, 709, 722, and 723 of this title, provided they meet the other requirements thereof. (Aug. 26, 1935, c. 698, § 2, 49 Stat. 869)

**EXECUTIVE ORDERS PROMULGATED PURSUANT TO CHAPTER 12**

[6967]

**ENTITLEMENT TO PENSIONS**

**VETERANS REGULATION No. 1 (f)**

**1. Veterans' Regulation No. 1 (a), as amended, is hereby amended by adding thereto a new part (V) reading as follows:**

**PART V**

**1.** Any person who served in the military or naval service of the United States between August 13, 1898, and July 4, 1902, both dates inclusive, and who left the continental United States under orders for military or naval service in Guam, Cuba, or Puerto Rico, between such dates, or the widow of any such person as long as she remains unmarried and/or dependents of any such person, to whom a pension was being paid on March 19, 1933, shall, from the date of this regulation, be entitled to receive a pension at 75 per centum of the rates in effect for such persons on March 19, 1933, subject to the reduction provided for in regulations issued pursuant to the act of March 20, 1933, ch. 3, 48 Stat. 8 (Public. No. 2, 73d Congress), pertaining to hospitalized cases. *Provided*, that no payments may be made to the person who served if his disability is the result of his own willful misconduct: *Provided further*, that the provisions of this paragraph shall not apply (1) to any person to whom payments were being made on March 19, 1933, through fraud, clear or unmistakable error as to conclusions of fact or law, or misrepresentation of a material fact, except that decisions as to degree of disability rendered prior to March 20, 1933, shall be conclusive, or (2) to any person during any year following a year for which such person was not entitled to exemption from the payment of a Federal income tax: *Provided, however*, that a veteran in Federal employ shall not receive more than \$8 per month if his salary if single exceeds \$1,000 and if married \$2,500 per annum: *Provided further*, that no pension shall be granted under this regulation for disability not shown to be due to service or for age if the person served less than ninety days and was not discharged for disability incurred in the service in line of duty: *And provided further*, that persons who meet the requirements of the laws in effect March 19, 1933, and who were not on the rolls on March 19, 1933, shall, subject to the limitations of this regulation, be entitled to receive pension upon the filing of such claim as may be prescribed by the Administrator of Veterans' Affairs. (Promulgated February 8, 1935)

**2.** This regulation shall be effective as of the date of its promulgation.

[6989]

**ENTITLEMENT TO PENSIONS**

**VETERANS REGULATION No. 1 (g)**

**1** Paragraph IV of Part I of Veterans Regulation No. 1 (a) is hereby amended to read as follows:

The surviving widow, child or children, and/or dependent mother or father of any deceased person who died as a result of injury or disease incurred in or aggravated by active military or naval service as provided for in Part I, paragraph I hereof, shall be entitled to receive pension at the monthly rates specified next below:

Widow under 50 years of age.....	\$30
Widow 50 years to 65 years of age.....	25
Widow over 65 years of age.....	40
Widow with one child, \$10 additional for such child up to 10 years of age, increased to \$15 from age 10 (with \$8 for each additional child up to 10 years of age, increased to \$13 from age 10).	
No widow but one child.....	20
No widow but two children.....	33 (equally divided)
No widow but three children.....	46 (equally divided)
(with \$8 for each additional child; total amount to be equally divided)	
Dependent mother or father.....	20
(or both).....	15 each

The total pension payable under this paragraph shall not exceed \$75 00. Where such benefits would otherwise exceed \$75 00 the amount of \$75 00 may be apportioned as the Administrator of Veterans' Affairs may prescribe.

2. Paragraph III of Part II of Veterans Regulation No. 1 (a) is hereby amended to read as follows:

The surviving widow, child or children, and/or dependent mother or father of any deceased person who died as a result of injury or disease incurred in or aggravated by active military or naval service as provided for in Part II, paragraph I hereof shall be entitled to receive pension at the monthly rates specified next below:

Widow under 50 years of age-----	\$22
Widow 50 years to 65 years of age-----	26
Widow over 65 years of age-----	30
Widow with one child, \$7 additional for such child up to 10 years of age, increased to \$11 from age 10 (with \$6 for each additional child up to 10 years of age, increased to \$9 from age 10).	
No widow but one child-----	15
No widow but two children-----	24 (equally divided)
No widow but three children-----	34 (equally divided)
(with \$6 for each additional child; total amount to be equally divided)	
Dependent mother or father-----	15
(or both)-----	11 each

The total pension payable under this paragraph shall not exceed \$56.00. Where such benefits would otherwise exceed \$56 00 the amount of \$56 00 may be apportioned as the Administrator of Veterans' Affairs may prescribe.

3. Veterans Regulation No. 1 (a), as amended, is hereby amended by adding thereto a new part (VI) reading as follows:

#### PART VI—DISAPPEARANCE

I. Where an incompetent veteran receiving pension under Part I or Part II of this regulation disappears, the Administrator, in his discretion, may pay to the dependents of such veteran the amount of pension provided in Part I or Part II for dependents of veterans; provided, that in no event shall payments under this Part in any claim exceed the amount of pension payable at the time of disappearance.

4. This regulation shall become effective April 1, 1935. (Promulgated March 19, 1935.)

#### [6990]

#### EFFECTIVE DATES OF AWARDS OF DISABILITY AND DEATH PENSIONS; PROVISIONS FOR FILING CLAIMS; REVIEW OF PRESUMPTIVE CLAIMS BY SPECIAL REVIEW BOARDS

##### VETERANS REGULATION No. 2 (d)

1. Paragraph I of Part I of Veterans Regulation No. 2 (a) is hereby amended to read as follows:

I. The effective date of an award of pension shall be as follows:

(a) The effective date of an award of pension shall be fixed in accordance with the facts found, except that:

(1) No award of disability or death pension shall be effective prior to the date of the veteran's separation from service, date of the veteran's death, date of the happening of the contingency upon which disability or death pension is allowed, or the date of receipt of application therefor, whichever is the later date.

(2) In the event the claimant's application is not complete at the time of original submission, the Veterans' Administration will notify the claimant of the evidence necessary to complete the application and if such evidence is not received within one year from the date of request therefor, pension may not be paid by virtue of that application.

(3) Where a claim has been finally disallowed, a subsequent claim on the same factual basis, if supported by new and material evidence, shall have the attributes of a new claim, notwithstanding the provisions of paragraph II, Part II of Veterans' Regulation No 2-Series.

2. Paragraph IV, subparagraph (b) of Part I of Veterans Regulation No 2 (a) is hereby amended to read as follows:

(b) Pension to a dependent mother or father shall continue during dependency until death or remarriage of the mother or father, whether the dependency arises prior or subsequent to the death of the veteran, provided, however, that when pension or compensation is properly discontinued by reason of remarriage it shall not thereafter be recommenced.

3 This regulation shall be effective as of the date of its promulgation. (Promulgated March 19, 1935.)

#### [6991]

#### ELIGIBILITY FOR DOMICILIARY OR HOSPITAL CARE, INCLUDING MEDICAL TREATMENT

##### VETERANS REGULATION No. 6 (d)

1. Paragraph VIII of Veterans Regulation No. 6 (a) is hereby amended to read as follows:

The Administrator of Veterans' Affairs is authorized to continue hospital and domiciliary care of those persons properly admitted under the laws in effect prior to March 20, 1933, until such time as they may be discharged without jeopardizing their health or life.

2 This regulation shall be effective as of March 20, 1933. (Promulgated March 19, 1935.)

#### [6963]

#### MISCELLANEOUS PROVISIONS

##### VETERANS REGULATION No. 10 (d)

Paragraph XI of Executive Order No. 6098, dated March 31, 1933 (Veterans Regulation No. 10), as amended by Executive Order No. 6234, dated July 28, 1933 (Veterans Regulation No. 10 (b)), is hereby canceled as of the date of promulgation of this regulation. (Promulgated February 5, 1935.)

#### [6992]

#### MISCELLANEOUS PROVISIONS

##### VETERANS REGULATION No. 10 (e)

1. Paragraph IV of Veterans Regulation No. 10 is hereby amended to read as follows:

The term "veteran of any war" shall include the following persons: World War—Any officer, enlisted man, member of the Army Nurse Corps (female) or Navy Nurse Corps (female) who was employed in the active military or naval service of the United States on or after April 6, 1917, and before November 12, 1918; provided, however, if the person was serving with the United States military forces in Russia the dates herein shall be extended to April 1, 1920; Spanish-American War—Any officer or enlisted man who was employed in the active military or naval service of the United States on or after April 21, 1898, and before August 13, 1898, including those women who served as Army nurses under contracts on or after April 21, 1898, and before August 13, 1898, and including any person who served in the military or naval service of the United States between August 13, 1898, and July 4, 1902, both dates inclusive, and who left the continental United States under orders for military or naval service in Guam, Cuba, or Puerto Rico, between such dates; provided, that for the purposes of hospitalization the term "veteran of any war" shall include persons who served overseas as contract surgeons of the Army on or after April 21, 1898, and before August 13, 1898; Philippine Insurrection—Any officer or enlisted man employed in the active military or naval service of the United States, including those women who served as Army nurses under contracts, who actually participated in the Philippine Insurrection on or after August 13, 1898, and before July 5, 1902; provided, however, if the person was serving in the United States military forces engaged in the hostilities in the Moro Province, the ending date shall be July 15, 1903; Boxer Rebellion—Any officer or enlisted man, including those women who served as Army nurses under contracts, employed in actual participation in the Boxer Rebellion on or after June 20, 1900, and before May 13, 1901.

2 This regulation shall be effective as of the date of its promulgation. (Promulgated March 19, 1935.)



## TITLE 39.—THE POSTAL SERVICE

### Chapter 1.—POST OFFICES

#### § 9. Rewards for detection of post-office burglars.

Repeated, Act May 14, 1935, c. 110, § 1, 49 Stat. 237.

### Chapter 3.—ASSISTANT POSTMASTERS, AND CLERKS AND EMPLOYEES

#### § 101. Messengers, watchmen, and laborers in first and second class post offices; grades; salaries; promotion; substitute watchmen, etc.; pay.

\* \* \* \* \*

Whenever any substitute laborer, watchman, or messenger is appointed to a permanent position as laborer, watchman, or messenger, the substitute service performed by such laborer, watchman, or messenger shall be computed in determining the eligibility of such person for promotion to grade 2 on the basis of three hundred and six days of eight hours constituting a year's service. Effective at the beginning of the first quarter following August 27, 1935, all laborers, watchmen, and messengers who have not progressed to grade 2 shall be promoted to that grade, provided they have the necessary credit of three hundred and six days of eight hours each constituting a year's service. (As amended Aug. 27, 1935, c. 759, 49 Stat. 904.)

The amendment by the act of 1935, cited to the text, added the above paragraph to this section.

§ 116. Employees in motor-vehicle service; classification; salaries; grades; readjustment; promotion; pay of substitutes; hours of work of certain employees; overtime pay. Employees in the motor-vehicle service shall be classified as follows: Superintendents, \$2,400, \$2,600, \$2,800, \$3,000, \$3,400, \$3,600, \$3,800, and \$4,000 per annum: *Provided*, That at offices where the receipts are \$20,000,000 and up, the salaries shall be \$4,300 per annum; assistant superintendents, \$2,500, \$2,600, and \$2,800 per annum; chiefs of records, \$2,200, \$2,300, \$2,400, \$2,500, \$2,600, \$2,800 and \$3,000; chiefs of supplies, \$2,200, \$2,300 and \$2,400; chief dispatchers, \$2,300 and \$2,500; route supervisors, \$2,400, \$2,500, and \$2,600; dispatchers, \$2,100, \$2,200, and \$2,300; chief mechanics, \$2,400, \$2,500, \$2,600, \$2,800, and \$3,000; mechanics in charge, \$2,200, \$2,300, and \$2,400; and special mechanics, \$2,100, \$2,200, and \$2,300: *Provided*, That assistant superintendents shall not be authorized at offices where the salary of the superintendent is less than \$3,000 per annum \* \* \*. (As amended Aug. 24, 1935, c. 643, 49 Stat. 795.)

### Chapter 6.—MAIL MATTER

§ 246c. Collect-on-delivery parcels; return of undelivered parcels to sender; demurrage charges for delay in delivery. Under such regulations as the Postmaster General may prescribe, any collect-on-delivery parcel which the addressee fails to remove from the post office within twenty days from the first attempt to deliver or the first notice of arrival at the office of address may be returned to the sender charged with the return postage, whether or not such parcel bears any specified time limit for delivery; and a demurrage charge of not exceeding 5 cents per day may be collected when delivery has not been made to either the addressee or the sender until after the expiration of the prescribed period: *Provided*, That no demurrage shall be charged on collect-on-delivery parcels exchanged between post offices in continental United States and post offices in the Territories and island possessions of the United States. (As amended Aug. 26, 1935, c. 695, 49 Stat. 867.)

### Chapter 7.—POSTAGE

#### § 280. Postage on first-class matter.

The temporary increase in postal rates made by section 1001 (a) of the Revenue Act of 1932, referred to in note under this section in the Code, has been continued to July 1, 1937, by Res. June 28, 1935, c. 333, 49 Stat. 431

### Chapter 8.—THE FRANKING PRIVILEGE

#### § 321. Matter relating to official business; official envelopes.

The last line of the note under this section in the Code should read: "See section 491 of Title 29."

### Chapter 10.—REGISTERED MAIL

#### § 382. Payment of limited indemnity claims by postmasters.

This section was erroneously numbered "§ 302" in the Code.

### Chapter 11.—UNCLAIMED, DEAD, AND REQUEST LETTERS, AND UNCLAIMED PRINTED MATTER

§ 406. Return of undelivered letters. The Postmaster General may regulate the period during which undelivered letters and parcels of the first class shall remain in any post office and when they shall be returned to the dead-letter office; and he may make regulations for their return from the dead-letter office to the writers when they cannot be delivered to the parties addressed. When letters and parcels of the first class are returned from the dead-letter office to the writers, a fee of 5 cents shall be collected at the time of delivery, and in addition a charge shall be made of the minimum registry fee for the return of all ordinary dead letters containing \$1 or more in cash, and parcels of the first class apparently valued at \$1 or more, under such rules and regulations as the Postmaster General may prescribe. (As amended June 7, 1935, c. 203, 49 Stat. 333.)

### Chapter 13.—AIR MAIL

§ 469a. Contracts; base rate of pay; routes; schedules. (a) The Postmaster General is authorized to award contracts for the transportation of air mail by airplane between such points as he may designate, and for initial periods of not exceeding three years, to the lowest responsible bidders tendering sufficient guaranty for faithful performance in accordance with the terms of the advertisement at fixed rates per airplane-mile: *Provided*, That where the Postmaster General holds that a low bidder is not responsible or qualified under sections 463 and 469 to 469s of this title, such bidder shall have the right to appeal to the Comptroller General, who shall speedily determine the issue, and his decision shall be final: *Provided further*, That the base rate of pay which may be bid and accepted in awarding such contracts shall in no case exceed 83½ cents per airplane-mile for transporting a mail load not exceeding three hundred pounds. Payment for transportation shall be at the base rate fixed in the contract for the first three hundred pounds of mail or fraction thereof plus one-tenth of such base rate for each additional one hundred pounds of mail or fraction thereof, computed at the end of each calendar month on the basis of the average mail load carried per mile over the route during such month, except that in no case shall payment exceed 40 cents per airplane-mile.

\* \* \* \* \*

(c) If, in the opinion of the Postmaster General, the public interest requires it, he may grant extensions of any route: *Provided*, That the aggregate mileage of all such extensions on any route in effect at one time shall not exceed two hundred and fifty miles, and that the rate of pay for such extensions shall not be in excess of the rate per mile fixed for the service thus extended.

(d) The Postmaster General may designate certain routes as primary or as secondary routes. He shall designate as primary routes at least three transcontinental routes, with such termini as he may deem advisable, and, in addition thereto, such other routes as he may consider in the public interest, but no route less than seven hundred and fifty miles in length shall be designated as a primary route: *Provided*, That the present routes from Seattle to San Diego and from Newark (or New York, as the case may be) to Miami, Florida, may be held and regarded as other than primary routes: *Provided further*, That the Southern Transcontinental Route from Boston via New York (or Newark, as the case may be) and Washington to Los Angeles, shall be designated as a primary route. The Commission created under section 469r of this title shall review the designations made by the Postmaster General under this subsection, and include in its report to Congress its conclusions reached upon such review.

\* \* \* \* \*

(f) The Postmaster General shall not award contracts for air-mail routes or extend such routes in excess of an aggregate of thirty-two thousand miles, and shall not pay for air-mail transportation on such routes and extensions in excess of an annual aggregate of forty-five million airplane-miles. Subject to the foregoing, the Postmaster General shall prescribe the number and frequency of schedules, intermediate regular stops, and time of departure of all planes carrying air mail, with due regard for the volume of mail carried over each route and for connecting schedules, and he may, under such regulations as he may prescribe, authorize and, notwithstanding any other provisions of sections 463 and 469 to 469s of this title, compensate for a special schedule or an extra or emergency trip in addition to any regular schedule over air-mail routes or portions thereof at the same mileage rate paid for regular schedules on the contract route or routes, or at a lesser rate if agreed to by the contractor and the Postmaster General, and he may utilize therefor any scheduled passenger or express flight of the contractor between the terminal points or over a portion of any route whenever the needs of the service may so require: *Provided*, That the Postmaster General may, upon application by an air-mail contractor, authorize said contractor for his own convenience to transport air mail on any nonmail schedule or plane, with the understanding that the weights of mail so transported will be credited to regular mail schedules and no mileage compensation will be claimed therefor and the miles flown in such cases will not be computed in the annual aggregate of flown mileage authorized under this section.

(g) Authority is hereby conferred upon the Postmaster General to provide and pay for the carriage of mail by air in conformity with the terms of any contract let by him prior to June 12, 1934, or which may be let pursuant to a call for competitive bids therefor issued prior to June 12, 1934, and to extend any such contract for an additional period or periods not exceeding nine months in the aggregate at a rate of compensation not exceeding that established by sections 463 and 469 to 469s of this title nor that provided for in the original contract: *Provided*, That no such contract may be so extended unless the contractor shall agree in writing to comply with all the provisions of sections 463 and 469 to 469s of this title during the extended period of the contract. (As amended Aug. 14, 1935, c. 530, §§ 1-4, 49 Stat. 614.)

Act Aug. 14, 1935, c. 530, affected subsections (a), (c), (d) and (f) of this section.

Provisions of subsection (g), insofar as in conflict with provisions of section 469d, post, are repealed by subsection (a) of that section.

§ 469d. Rates; authority of Commission to fix; renewal; continuation or termination of contracts; new contracts; reports of free transportation. (a) The Interstate Commerce Commission is hereby empowered and directed, after notice and hearing, to fix and determine by order, as soon as practicable and from time to time, the fair and reasonable rates of compensation within the limitations of sections 463 and 469 to 469s of this title for the transportation of air mail by airplane and the service connected therewith over each air-mail route, and over each section thereof covered by a separate contract, prescribing the method or methods by weight or space, or both, or otherwise, for ascertaining such rates of compensation, and to publish the same, which shall continue in force until changed by the said Commission after due notice and hearing, and so much of subsection (g) of section 469a of this title as is in conflict with this section is hereby repealed.

(b) The Interstate Commerce Commission is hereby directed at least once in each calendar year from the date of the award of any contract to examine the books, accounts, contracts, and entire business records of the holder of each air-mail contract, and to review the rates of compensation being paid to such holder in order to be assured that no unreasonable profit is being derived or accruing therefrom, and in order to fix just rates. In determining what may constitute an unreasonable profit the said Commission shall take into consideration the income derived from the operation of airplanes over the routes affected, and in addition to the requirements of section 469a (f) of this title, shall take into consideration all forms of expenditures of said companies in order to ascertain whether or not the expenditures have been upon a fair and reasonable basis on the part of said company and whether or not the said company has paid more than a fair and reasonable market value for the purchase or rent of planes, engines, or any other types or kind, or class, or goods, or services, including spare parts of all kinds, and whether or not the air-mail contracting company has purchased or rented any kind of goods, commodities, or services from any individuals who own stock in or are connected with the said contracting companies or has purchased such goods and services from any company or corporations in which any of the individuals employed by or owning stock in the air-mail contracting company have any interest or from which such purchase or rents any of the employees or stockholders of air-mail contracting companies would be directly or indirectly benefited. Within thirty days after a decision has been reached upon such review by the Interstate Commerce Commission touching such profit a full report thereof shall be made to the Postmaster General, to the Secretary of the United States Senate, and to the Clerk of the House of Representatives.

(c) Any contract (1) let, extended, or assigned pursuant to the provisions of sections 463 and 469 to 469s of this title, and in full force and effect on March 1, 1935, or (2) which may be let subsequent to such date pursuant to the provisions of this Act and shall have been satisfactorily performed by the contractor during its full initial period, shall, from and after such date, or from and after the termination of its initial period, as the case may be, be continued in effect for an indefinite period, and compensation therefor, on and after March 1, 1935, during such period of indefinite continuance, shall be paid at the rate fixed by order of the Commission under sections 463 and 469 to 469s of this title, subject to such additional conditions and terms as the Commission may prescribe, upon recommendation of the Postmaster General, which shall be consistent with the requirements and limitations contained in section 469a of this title; but any contract so continued in effect may be terminated by the Commission upon sixty days' notice, upon such hearing and notice thereof to interested parties as the Commission may determine to be reasonable; and may also be terminated, in whole or in part, by mutual agreement of the Postmaster General and the contractor, or for cause by the contractor upon sixty

days' notice. On the termination of any air-mail contract, in accordance with any of the provisions of sections 463 and 469 to 469s of this title, the Postmaster General may let a new contract for air-mail service over the route affected, as authorized in sections 463 and 469 to 469s of this title.

\* \* \* \* \*

(e) In fixing and determining the fair and reasonable rates of compensation for air-mail transportation, the Commission shall give consideration to the amount of air mail so carried, the facilities supplied by the carrier, and its revenue and profits from all sources, and from a consideration of these and other material elements, shall fix and establish rates for each route which, in connection with the rates fixed by it for all other routes, shall be designed to keep the aggregate cost of the transportation of air mail on and after July 1, 1938, within the limits of the anticipated postal revenue therefrom. In arriving at such determination the Commission shall disregard losses resulting, in the opinion of the Commission, from the unprofitable maintenance of nonmail schedules, in cases where the Commission may find that the gross receipts from such schedules fail to meet the additional operating expense occasioned thereby. In fixing and determining such rates, if it shall be contended or alleged by the holder of an air-mail contract that the rate of compensation in force for the service involved is insufficient, the burden of establishing such insufficiency and the extent thereof shall be assumed by him. In no case shall the rates fixed and determined by the said Commission hereunder exceed the limits prescribed in section 469a (a) of this title.

The Commission is hereby authorized and directed, after having made a full and complete examination and audit of the books, and after having examined and carefully scrutinized all expenditures and purported expenditures, of the holders of the contracts hereinafter referred to, for goods, lands, commodities, and services, in order to determine whether or not such expenditures were fair and just, and were not improper, excessive, or collusive, in the cases of the eight air-mail contracts which are allowed, by a previous report of the Commission, the rate of 33½ cents per mile, under the provisions of sections 463 and 469 to 469s of this title, on routes Numbered 7, 12, 13, 14, 19, 25, 27, and 32, and the Commission shall make a report to the Congress, not later than January 15, 1936, whether or not, in its judgment, a fair and reasonable rate of compensation on each of said eight contracts, under the other provisions and conditions of said sections, is in excess of 33½ cents per mile; together with full facts and reasons in detail why it recommends for or against any claim for increase.

(f) Each holder of an air-mail contract shall file with the Interstate Commerce Commission, in such form as the Commission shall require, on July 1st and January 1st of each year, a full statement of all free transportation furnished after Aug. 14, 1935 during the preceding semiannual period to any persons, including in each case the regular tariff value thereof, the name and address of the donee, and a statement of the reason for furnishing such free transportation. (As amended Aug. 14, 1935, c. 530, §§ 5-8, 13, 49 Stat. 616-617, 619.)

Act Aug. 14, 1935, c. 530, affected subsections (a), (b), (c), (e) and added subsection (f).

**§ 469e. Interest of contractors in other phases of aviation industry prohibited; unlawful combinations in respect to bids.**

\* \* \* \* \*

(d) No person shall be qualified to enter upon the performance of, or thereafter to hold an air-mail contract, (1) if at or after the time specified for the commencement of mail transportation under such contract, such person is (or, if a partnership, association, or corporation, has a member, officer, or director, or an employee performing general managerial duties, that is) an individual who has theretofore entered into any unlawful combination to prevent the making of

any bids for carrying the mails: *Provided*, That whenever required by the Postmaster General or Interstate Commerce Commission the bidder shall submit an affidavit executed by the bidder, or by such of its officers, directors, or general managerial employees as the Postmaster General or Interstate Commerce Commission may designate, sworn to before an officer authorized and empowered to administer oaths, stating in such affidavit that the affiant has not entered nor proposed to enter into any combination to prevent the making of any bid for carrying the mails, nor made any agreement, or given or performed, or promised to give or perform, any consideration whatever to induce any other person to bid or not to bid for any mail contract, or (2) if it pays any officer, director, or regular employee compensation in any form, whether as salary, bonus, commission, or otherwise, at a rate exceeding \$17,500 per year for full time: *Provided further*, That it shall be unlawful for any officer or regular employee to draw a salary of more than \$17,500 per year from any air-mail contractor, or a salary from any other company if such salary from any company makes his total compensation more than \$17,500 per year. (As amended Aug. 14, 1935, c. 530, § 9, 49 Stat. 617.)

Act Aug. 14, 1935, c. 530 affected subsection (d) of this section, by inserting "Interstate Commerce Commission" in first proviso and adding last proviso.

**§ 469h. Books, records and accounts, credits and reports.** All persons holding air-mail contracts shall be required to keep their books, records, and accounts under such regulations as may be promulgated by the Postmaster General, and he is hereby authorized, if and when he deems it advisable to do so, to examine and audit the books, records, and accounts of such contractors, and to require such contractors to submit full financial reports in such form and under such regulations as he may prescribe.

Whenever an audit of the books, records, or accounts of any air-mail contractor is made by the auditors of the Interstate Commerce Commission, a full and complete report thereof shall be made to the Post Office Department within thirty days, and that report shall contain all instances in which the contractor has failed to comply with any of the provisions of the uniform system of accounts prescribed by the Post Office Department; and the Postmaster General shall, upon request, have at all times access to the records and reports of the Commission concerning air mail and air-mail contracts. There is authorized to be used from the appropriations for Contract Air Mail Service for the fiscal year ending June 30, 1936, a sum not in excess of \$25,000 for the purpose of auditing the books and records of air-mail contractors by the Post Office Department. (As amended Aug. 14, 1935, c. 530, § 10, 49 Stat. 618.)

**§ 469k. Working conditions; compliance with decisions of National Labor Board.** It shall be a condition upon the holding of any air-mail contract that the rate of compensation and the working conditions and relations for all pilots and other employees of the holder of such contract shall conform to decisions heretofore or hereafter made by the National Labor Board, or its successor in authority, notwithstanding any limitation as to the period of its effectiveness included in any such decision heretofore rendered. This section shall not be construed as restricting the right of any such employees by collective bargaining to obtain higher rates of compensation or more favorable working conditions and relations. (As amended Aug. 14, 1935, c. 530, § 11, 49 Stat. 618.)

**§ 469m. Number of contracts; limitation on; merger of competing parallel lines; unfair competition, regulation by Commission; withholding compensation during violations.** After June 30, 1935, no person holding a contract or contracts for carrying air mail on a primary route shall be awarded or hold any contract for carrying air mail on any other primary route, nor on more than three additional routes other than primary routes. In case one person holds sev-

eral contracts covering different sections of one air-mail route as designated by the Postmaster General, such several contracts shall be counted as one contract for the purpose of the preceding sentence. It shall be unlawful for air-mail contractors, competing in parallel routes, to merge or to enter into any agreement, express or implied, which may result in common control or ownership. After June 30, 1935, no air-mail contractor shall be allowed to maintain passenger or express service off the line of his air-mail route which in any way competes with passenger or express service available upon another air-mail route, except that off-line competitive service which has been regularly maintained on and prior to July 1, 1935, and such seasonal schedules as may have been regularly maintained during the year prior to July 1, 1935, may be continued if restricted to the number of schedules and to the stops scheduled and in effect during such period or season.

Upon application of the Postmaster General or of any interested air-mail contractor, setting forth that the general transport business or earnings upon an air-mail route are being adversely affected by any alleged unfair practice of another air-mail contractor, or by any competitive air-transport service supplied by an air-mail contractor other than that supplied by him on the line of his prescribed air-mail route, or by any service inaugurated by him after July 1, 1935, through the scheduling of competitive nonmail flights over an air-mail route, the Interstate Commerce Commission shall, after giving reasonable notice to the air-mail contractor complained of, inquire fully into the subject matter of the allegations; and if the Commission shall find such practice or competition or any part thereof to be unfair, or that such competitive service in whole or in part is not reasonably required in the interest of public convenience and necessity, and if the Commission shall further find that in either case the receipts or expenses of an air-mail contractor are so affected thereby as to tend to increase the cost of air-mail transportation, then it shall order such practice or competitive service, or both, as the case may be, discontinued or restricted in accordance with such findings, and the respondent air-mail contractor named in the order shall comply therewith within a reasonable time to be fixed in such order. If the Commission shall find after like application, notice, and hearing that the public convenience and necessity requires additional service or schedules and such service or schedules do not tend to increase the cost of air-mail transportation, it may permit the institution and maintenance of such schedules and prescribe the frequency thereof. The compensation of any air-mail contractor shall be withheld during any period that it continues to violate any order of the Commission or any provision of sections 463 and 469 to 469s of this title. (As amended Aug 14, 1935, c. 530, § 12, 49 Stat. 618.)

#### Chapter 14.—CARRYING THE MAIL

§ 488. **Emergency mail service in Alaska; air mail.** The Postmaster General may provide difficult or emergency mail service in Alaska, at a total annual cost of not exceeding \$25,000, including the establishment and equipment of relay stations, in such manner as he may think advisable, without advertising therefor; and he is authorized, in his discretion, to contract, after advertisement in accordance with law, for the carriage of all classes of mail within the Territory of Alaska, by airplane, payment therefor to be made from the appropriation for star-route service in Alaska. (As amended Aug. 24, 1935, c. 638, 49 Stat. 744.)

#### Chapter 18.—POST-OFFICE INSPECTORS

§ 693a. **Adjustment of compensation of inspectors.** The Postmaster General is authorized and directed to adjust the compensation of post-office inspectors and inspectors in charge in the post-office inspection service to correspond, so far as may be practicable, to the rates established by sections 661 to 674 of Title 5, for positions in the departmental service in the District

of Columbia. Any appropriation now or hereafter available for the payment of the compensation of post-office inspectors and inspectors in charge shall be available for payment of compensation in accordance with the rates adjusted in accordance with the provisions of this section. (Aug. 7, 1935, c. 450, 49 Stat. 538.)

#### Chapter 20.—POSTAL SAVINGS DEPOSITORIES

§ 758. **Withdrawals; payment from deposits.** Notwithstanding any other provision of law, (1) each deposit in a postal savings depository office shall be a savings deposit, and interest thereon shall be allowed and entered to the credit of the depositor once for each quarter beginning with the first day of the month following the date of such deposit, but no interest shall be allowed to any such depositor with respect to the whole or any part of the funds to his or her credit for any period of less than three months; (2) no interest shall be paid on any such deposit at a rate in excess of that which may lawfully be paid on savings deposits under regulations prescribed by the Board of Governors of the Federal Reserve System pursuant to section 371b of Title 12, for member banks of the Federal Reserve System located in or nearest to the place where such depository office is situated; and (3) postal savings depositories may deposit funds on time in member banks of the Federal Reserve System subject to the provisions of section 371b of Title 12, and the regulations of the Board of Governors of the Federal Reserve System, with respect to the payment of time deposits and interest thereon. \* \* \* (As amended Aug. 23, 1935, c. 614, § 341, 49 Stat. 721.)

The amendment struck out the first sentence and inserted the matter set out above in lieu thereof.

#### Chapter 22.—MISCELLANEOUS PROVISIONS RELATING TO THE POSTAL SERVICE

§ 805. **Sale of post-route maps and rural-delivery maps.**

Repeated, Act May 14, 1935, c. 110, § 1, 49 Stat. 241.

§ 809a. **Contracts for telephone service.**

Repeated, Act May 14, 1935, c. 110, § 1, 49 Stat. 242.

§ 813. **Rewards for inventions and improvements in service.**

Repeated, Act May 14, 1935, c. 110, § 1, 49 Stat. 236.

§ 831. **Hours of work; Saturdays; compensatory time; overtime pay.** [Superseded.]

This section (Feb 17, 1931, c. 206, 46 Stat. 1164) is superseded by section 832 of this title.

§ 832. **Compensatory time or overtime for Saturday or overtime work.** When the needs of the service require supervisory employees, special clerks, clerks, and laborers in first- and second-class post offices, and employees of the motor-vehicle service, and carriers in the City Delivery Service and in the village delivery service, and employees of the Railway Mail Service, clerks at Division Headquarters of Post-office Inspectors, employees of the Stamped Envelope Agency and employees of the mail equipment shops; cleaners, janitors, telephone operators, and elevator conductors, paid from appropriations of the First Assistant Postmaster General; and all employees of the Custodial Service except charwomen and charmen and those working part time, to perform service on Saturday they shall be allowed compensatory time for such service on one day within five working days next succeeding the Saturday on which the excess service was performed: *Provided*, That employees who are granted compensatory time on Saturday for work performed the preceding Sunday or the preceding holiday shall be given the benefits of this section on one day within five working days following the Saturday when such compensatory time was granted: *Provided further*, That the Postmaster General may, if the exigencies of the service require it, authorize the payment of overtime for service on the last three Saturdays in the calendar year in lieu of compensatory time, except cleaners, janitors, telephone operators, and elevator conductors paid from the appropriation of the First

Assistant Postmaster General, and custodial employees who shall be given compensatory time in lieu of overtime pay within thirty days next succeeding: *And provided further*, That for the purpose of extending the benefits of this section to railway postal clerks the service of said railway postal clerks assigned to road duty shall be based on an average not exceeding 6 hours and 40 minutes per day for three hundred and six days per annum, including a proper allowance for all service required on lay-off periods as provided in Post Office Department circular letter numbered 1348, dated May 12, 1921; and railway postal clerks required to perform service in excess of six hours and forty minutes daily, as herein provided, shall be paid in cash at the annual rate of pay or granted compensatory time, at their option, for such overtime. (Aug. 14, 1935, c. 535, § 1, 49 Stat. 650.)

§ 833. Ratio of substitute to regular employees. The ratio of substitute post-office clerks, substitute

city letter carriers, substitute laborers, substitutes in the motor vehicle service, and substitutes in the Railway Mail Service shall be not more than one substitute for eight regular employees: *Provided*, That at post offices with receipts of more than \$500,000 per annum, and less than \$10,000,000 per annum, the ratio of substitutes shall not be more than one substitute for ten regular employees: *Provided further*, That at post offices with receipts of less than \$500,000 the ratio shall be not more than one substitute for twelve regular employees, and at offices having less than twelve employees one substitute shall be provided: *Provided further*, That where the ratio of substitutes on Aug. 14, 1935 is in excess of the ratio provided for herein no additional substitutes shall be appointed until these ratios are established: *And provided further*, That the provisions of this section shall not operate to furlough or dismiss any regular substitute. (Aug. 14, 1935, c. 535, § 2, 49 Stat. 651.)



## TITLE 40.—PUBLIC BUILDINGS, PROPERTY, AND WORKS

### Chapter 1.—PUBLIC BUILDINGS, GROUNDS, PARKS, AND WHARVES IN DISTRICT OF COLUMBIA

§ 22b. Heat for Federal Reserve Board. The Secretary of the Interior through the National Park Service is authorized to furnish steam from the central heating plant for the use of the Federal Reserve Board on the property which has been acquired by it in squares east of 87 and east of 88 in the District of Columbia: *Provided*, That the Federal Reserve Board agrees to pay for the steam furnished at reasonable rates, not less than cost, as may be determined by the Secretary of the Interior: *Provided further*, That the Federal Reserve Board agrees to provide the necessary connections with the Government mains at its own expense and in a manner satisfactory to the Secretary of the Interior. (June 27, 1935, c. 320, § 1, 49 Stat. 425.)

§ 22c. Rates for heat for non-Federal public buildings. After June 27, 1935, the rates to be paid for steam furnished to the Corcoran Gallery of Art, the buildings, old and new, of the Pan American Union, the American Red Cross Buildings, and such other non-Federal public buildings as are or hereafter may be authorized to receive steam from the central heating plant shall be determined by the Secretary of the Interior. (June 27, 1935, c. 320, § 2, 49 Stat. 425.)

#### § 26. Inspection of gas and electric meters.

"May 14, 1928, c. 517, § 1, 45 Stat. 526" in citation should be "May 14, 1928, c. 551, § 1, 45 Stat. 526"

§ 109a. Purchases of coal and wood by Procurement Division; application of statutory requirements as to weighing, etc.

Repeated, Act May 14, 1935, c. 110, § 1, 49 Stat. 234.

### Chapter 2.—CAPITOL BUILDING AND GROUNDS

#### § 201. Same; arrests.

"it" in line 6 should be "the said sections."

§ 217a. Plant material exchanges. After July 8, 1935, plant material exchanges may be made with botanic gardens, institutions, municipal parks, and gardens. (July 8, 1935, c. 374, § 1, 49 Stat. 471.)

### Chapter 3.—PUBLIC BUILDINGS AND WORKS, GENERALLY

§ 270. Bonds of contractors for public buildings or works; rights of persons furnishing labor and materials. [Repealed.]

This section was repealed by Act August 24, 1935, c. 642, § 5, 49 Stat. 794, except that it shall remain in force with respect to contracts for which invitations for bids have been issued on or before sixty days after August 24, 1935, and to persons and bonds in respect of such contracts.

§ 270a. Same; waiver of bonds covering contract performed in foreign country. (a) Before any contract, exceeding \$2,000 in amount, for the construction, alteration, or repair of any public building or public work of the United States is awarded to any person, such person shall furnish to the United States the following bonds, which shall become binding upon the award of the contract to such person, who is hereinafter designated as "contractor":

(1) A performance bond with a surety or sureties satisfactory to the officer awarding such contract, and in such amount as he shall deem adequate, for the protection of the United States.

(2) A payment bond with a surety or sureties satisfactory to such officer for the protection of all per-

sons supplying labor and material in the prosecution of the work provided for in said contract for the use of each such person. Whenever the total amount payable by the terms of the contract shall be not more than \$1,000,000 the said payment bond shall be in a sum of one-half the total amount payable by the terms of the contract. Whenever the total amount payable by the terms of the contract shall be more than \$1,000,000 and not more than \$5,000,000, the said payment bond shall be in a sum of 40 per centum of the total amount payable by the terms of the contract. Whenever the total amount payable by the terms of the contract shall be more than \$5,000,000 the said payment bond shall be in the sum of \$2,500,000.

(b) The contracting officer in respect of any contract is authorized to waive the requirement of a performance bond and payment bond for so much of the work under such contract as is to be performed in a foreign country if he finds that it is impracticable for the contractor to furnish such bonds.

(c) Nothing in this section shall be construed to limit the authority of any contracting officer to require a performance bond or other security in addition to those, or in cases other than the cases specified in subsection (a) of this section. (Aug. 24, 1935, c. 642, § 1, 49 Stat. 793.)

Section 5 of Act August 24, 1935, c. 642, 49 Stat. 793, cited to text, provides that the Act "shall take effect upon the expiration of sixty days after the date of its enactment, but shall not apply to any contract awarded pursuant to any invitation for bids issued on or before the date it takes effect, or to any persons or bonds in respect of any such contract."

§ 270b. Same; rights of persons furnishing labor or material. (a) Every person who has furnished labor or material in the prosecution of the work provided for in such contract, in respect of which a payment bond is furnished under section 270a of this title and who has not been paid in full therefor before the expiration of a period of ninety days after the day on which the last of the labor was done or performed by him or material was furnished or supplied by him for which such claim is made, shall have the right to sue on such payment bond for the amount, or the balance thereof, unpaid at the time of institution of such suit and to prosecute said action to final execution and judgment for the sum or sums justly due him: *Provided, however*, That any person having direct contractual relationship with a subcontractor but no contractual relationship express or implied with the contractor furnishing said payment bond shall have a right of action upon the said payment bond upon giving written notice to said contractor within ninety days from the date on which such person did or performed the last of the labor or furnished or supplied the last of the material for which such claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the material was furnished or supplied or for whom the labor was done or performed. Such notice shall be served by mailing the same by registered mail, postage prepaid, in an envelop addressed to the contractor at any place he maintains an office or conducts his business, or his residence, or in any manner in which the United States marshal of the district in which the public improvement is situated is authorized by law to serve summons.

(b) Every suit instituted under this section shall be brought in the name of the United States for the use of the person suing, in the United States District Court for any district in which the contract was to be performed and executed and not elsewhere, irrespective of the amount in controversy in such suit, but



no such suit shall be commenced after the expiration of one year after the date of final settlement of such contract. The United States shall not be liable for the payment of any costs or expenses of any such suit. (Aug. 24, 1935, c. 642, § 2, 49 Stat. 794.)

Section 5 of Act August 24, 1935, c. 642, 49 Stat. 794, cited to the text, provides that the Act "shall take effect upon the expiration of sixty days after the date of its enactment, but shall not apply to any contract awarded pursuant to any invitation for bids issued on or before the date it takes effect, or to any persons or bonds in respect of any such contract."

**§ 270c. Same; right of person furnishing labor or material to copy of bond.** The Comptroller General is authorized and directed to furnish, to any person making application therefor who submits an affidavit that he has supplied labor or materials for such work and payment therefor has not been made or that he is being sued on any such bond, a certified copy of such bond and the contract for which it was given, which copy shall be prima facie evidence of the contents, execution, and delivery of the original, and, in case final settlement of such contract has been made, a certified statement of the date of such settlement, which shall be conclusive as to such date upon the parties. Applicants shall pay for such certified copies and certified statements such fees as the Comptroller General fixes to cover the cost of preparation thereof. (Aug. 24, 1935, c. 642, § 3, 49 Stat. 794.)

Section 5 of Act August 24, 1935, c. 642, 49 Stat. 794, cited to the text, provides that the Act "shall take effect upon the expiration of sixty days after the date of its enactment, but shall not apply to any contract awarded pursuant to any invitation for bids issued on or before the date it takes effect, or to any persons or bonds in respect of any such contract."

**§ 270d. Same; definition of "person" in sections 270a, 270b and 270c.** The term "person" and the masculine pronoun as used in sections 270a, 270b and 270c of this title shall include all persons whether individuals, associations, copartnerships, or corporations. (Aug. 24, 1935, c. 642, § 4, 49 Stat. 794.)

Section 5 of Act August 24, 1935, c. 642, 49 Stat. 794, cited to the text, provides that the Act "shall take effect upon the expiration of sixty days after the date of its enactment, but shall not apply to any contract awarded pursuant to any invitation for bids issued on or before the date it takes effect, or to any persons or bonds in respect of any such contract."

**§ 276a. Rate of wages for laborers and mechanics.** The advertised specifications for every contract in excess of \$2,000, to which the United States or the District of Columbia is a party, for construction, alteration, and/or repair, including painting and decorating, of public buildings or public works of the United States or the District of Columbia within the geographical limits of the States of the Union or the District of Columbia, and which requires or involves the employment of mechanics and/or laborers shall contain a provision stating the minimum wages to be paid various classes of laborers and mechanics which shall be based upon the wages that will be determined by the Secretary of Labor to be prevailing for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work in the city, town, village, or other civil subdivision of the State in which the work is to be performed, or in the District of Columbia if the work is to be performed there; and every contract based upon these specifications shall contain a stipulation that the contractor or his subcontractor shall pay all mechanics and laborers employed directly upon the site of the work, unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account, the full amounts accrued at time of payment, computed at wage rates not less than those stated in the advertised specifications, regardless of any contractual relationship which may be alleged to exist between the contractor or subcontractor and such laborers and mechanics, and that the scale of wages to be paid shall be posted by the contractor in a prominent and easily accessible place at the site of the work; and the further stipulation that there may be withheld from the contractor so much of accrued payments as may be considered necessary

by the contracting officer to pay to laborers and mechanics employed by the contractor or any subcontractor on the work the difference between the rates of wages required by the contract to be paid laborers and mechanics on the work and the rates of wages received by such laborers and mechanics and not refunded to the contractor, subcontractors, or their agents. (As amended Aug. 30, 1935, c. 825, § 1, 49 Stat. 1011.)

**§ 276a-1. Termination of work on failure to pay agreed wages; completion of work by government.** Every contract within the scope of section 276a to 276a-6 of this title shall contain the further provision that in the event it is found by the contracting officer that any laborer or mechanic employed by the contractor or any subcontractor directly on the site of the work covered by the contract has been or is being paid a rate of wages less than the rate of wages required by the contract to be paid as aforesaid, the Government may, by written notice to the contractor, terminate his right to proceed with the work or such part of the work as to which there has been a failure to pay said required wages and to prosecute the work to completion by contract or otherwise, and the contractor and his sureties shall be liable to the Government for any excess costs occasioned the Government thereby. (Aug. 30, 1935, c. 825, § 2, 49 Stat. 1012.)

**§ 276a-2. Payment of wages by Comptroller General from withheld payments; listing contractors violating contracts.** (a) The Comptroller General of the United States is hereby authorized and directed to pay directly to laborers and mechanics from any accrued payments withheld under the terms of the contract any wages found to be due laborers and mechanics pursuant to sections 276a to 276a-6 of this title; and the Comptroller General of the United States is further authorized and is directed to distribute a list to all departments of the Government giving the names of persons or firms whom he has found to have disregarded their obligations to employees and subcontractors. No contract shall be awarded to the persons or firms appearing on this list or to any firm, corporation, partnership, or association in which such persons or firms have an interest until three years have elapsed from the date of publication of the list containing the names of such persons or firms.

(b) If the accrued payments withheld under the terms of the contract, as aforesaid, are insufficient to reimburse all the laborers and mechanics with respect to whom there has been a failure to pay the wages required pursuant to sections 276a to 276a-6 of this title, such laborers and mechanics shall have the right of action and/or of intervention against the contractor and his sureties conferred by law upon persons furnishing labor or materials, and in such proceedings it shall be no defense that such laborers and mechanics accepted or agreed to accept less than the required rate of wages or voluntarily made refunds. (Aug. 30, 1935, c. 825, § 3, 49 Stat. 1012.)

**§ 276a-3. Effect on other Federal laws.** Sections 276a to 276a-6 of this title shall not be construed to supersede or impair any authority otherwise granted by Federal law to provide for the establishment of specific wage rates. (Aug. 30, 1935, c. 825, § 4, 49 Stat. 1012.)

**§ 276a-4. Effective date of sections 276a to 276a-6.** Sections 276a to 276a-6 of this title shall take effect thirty days after August 30, 1935, but shall not affect any contract then existing or any contract that may thereafter be entered into pursuant to invitations for bids that are outstanding on August 30, 1935. (Aug. 30, 1935, c. 825, § 5, 49 Stat. 1013.)

**§ 276a-5. Suspension of sections 276a to 276a-6 during emergency.** In the event of a national emergency the President is authorized to suspend the provisions of sections 276a to 276a-6 of this title. (Aug. 30, 1935, c. 825, § 6, 49 Stat. 1013.)

§ 276a-6. **Appropriation.** The funds appropriated and made available by the Emergency Relief Appropriation Act of 1935 [set out in note to section 728, Title 15], are hereby made available for the fiscal year ending June 30, 1936, to the Department of Labor for expenses of the administration of sections 276a to 276a-6 of this title. (Aug. 30, 1935, c. 825, § 7, 49 Stat. 1013.)

#### Chapter 4.—THE PUBLIC PROPERTY

§ 304a. **Disposition of surplus real property; assignment to governmental agency; lease; sale.** Notwithstanding any other provisions of law, whenever any real property located outside of the District of Columbia, exclusive of military or naval reservations, heretofore or hereafter acquired by any Federal agency, by judicial process or otherwise in the collection of debts, purchase, donation, condemnation, devise, forfeiture, lease, or in any other manner, is, in whole or in part, declared to be in excess of its needs by the Federal agency having control thereof, or by the President on recommendation of the Secretary of the Treasury, the Director of Procurement, with the approval of the Secretary of the Treasury, is authorized (a) to assign or reassign to any Federal agency or agencies space therein: *Provided*, That if the Federal agency to which space is assigned does not desire to occupy the space so assigned to it, the decision of the Director of Procurement shall be subject to review by the President; or (b) pending a sale, to lease such real property on such terms and for such period not in excess of five years as he may deem in the public interest; or (c) to sell the same at public sale to the highest responsible bidder upon such terms and after such public advertisement as he may deem in the public interest. (Aug. 27, 1935, c. 744, § 1, 49 Stat. 885)

§ 304b. **Alterations and repairs to real property assigned; payment by agency.** Whenever after investigation it is determined by the Director of Procurement that any such real property should be used for the accommodation of any Federal agency or agencies, the Director of Procurement is authorized to make any repairs thereto or alterations thereof which he deems necessary or advisable and to maintain and operate the same. To the extent that the appropriations of the Procurement Division not otherwise allocated are inadequate for such repairs, alterations, maintenance, or operation, the Director of Procurement may require each Federal agency to which space has been assigned therein pursuant to the provisions of section 304a of this chapter to pay promptly by check to the Procurement Division out of its appropriation for rent, either in advance of or upon or during occupancy of such space, all or part of the estimated or actual cost of such repairs, alterations, maintenance, and operation: *Provided*, That the total amount so to be paid shall be determined and equitably apportioned by the Director of Procurement among the Federal agencies to whom space has been so assigned: *Provided further*, That the amount so charged against any Federal agency shall be computed at a rate not in excess of that paid as rent by such agency immediately preceding such assignment for space in lieu of which space is so assigned to it, and if it is less the difference shall be deposited in the Treasury as miscellaneous receipts: *And provided further*, That in the event such space is not assigned in lieu of existing space, the amount so charged shall be computed at a rate not in excess of that which the Director of Procurement determines, with the approval of the Secretary of the Treasury, would have been paid as rent for corresponding space during the current fiscal year, and if it is less the difference shall be deposited in the Treasury as miscellaneous receipts. If a Federal agency subject to this proviso disagrees with the amount the Director of Procurement so determines would have been paid as rent, the determination of the Director of Procurement shall be

subject to review by the President. (Aug. 27, 1935, c. 744, § 2, 49 Stat. 886)

§ 304c. **Leasing additional space; assignment to agency; payment.** The Director of Procurement, with the approval of the Secretary of the Treasury, is further authorized to procure space by lease, on such terms and for such period not in excess of five years as he may deem in the public interest, for the housing of any Federal agency or agencies outside of the District of Columbia, except the Post Office Department, and to assign and reassign space therein in the same manner as is authorized with respect to surplus real property by section 304a of this chapter, and to require the Federal agencies to whom space is assigned therein to pay the total expenditures required under such lease during its entire term in the manner specified in section 304b of this chapter. (Aug. 27, 1935, c. 744, § 3, 49 Stat. 886)

§ 304d. **Regulations under sections 304a-304c.** The Director of Procurement, with the approval of the Secretary of the Treasury, is authorized to make such regulations as may be necessary to carry out the provisions of sections 304a to 304c of this title. (Aug. 27, 1935, c. 744, § 4, 49 Stat. 886.)

§ 304e. **"Federal agency" as used in sections 304a-304c defined.** The term "Federal agency", as used in sections 304a to 304c, means any executive department, independent establishment, commission, board, bureau, division, or office in the executive branch, or other agency of the United States, including corporations wholly owned by the United States. (Aug. 27, 1935, c. 744, § 5, 49 Stat. 886.)

§ 304f. **Disposition of property abandoned or forfeited to United States; definitions of words used in sections 304g-304m.** As used in sections 304g to 304m—

(1) "Property" means all personal property, including but not limited to vessels, vehicles, and aircraft;

(2) "Agency" includes any executive department, independent establishment, board, commission, bureau, service, or division of the United States, and any corporation in which the United States owns all or a majority of the stock.

(3) "Director" means the Director of the Procurement Division of the Treasury Department of the United States. (Aug. 27, 1935, c. 740, § 301, 49 Stat. 879.)

§ 304g. **Disposition of property voluntarily abandoned to United States.** In the event that any property is or has been voluntarily abandoned to any agency in such manner as to vest title thereto in the United States, it may be retained by such agency and devoted to official use only. If such agency shall not desire so to retain such property, the head thereof shall forthwith notify the Director to that effect, and the Director shall, within a reasonable time—

(a) order such agency to deliver the property to any other agency which requests and in his judgment should be given the property, or

(b) order disposal of the property as otherwise provided by law. (Aug. 27, 1935, c. 740, § 302, 49 Stat. 879.)

§ 304h. **Disposition of property forfeited to United States.** In the event that any property seized by any agency is or has been forfeited to the United States otherwise than by court decree, it may, in the event that the property is not ordered by competent authority to be returned to any claimant, and in lieu of being disposed of as otherwise provided by law (including advertisement for sale, and sale), be retained by such agency and devoted to official use only. If such agency shall not desire so to retain such property, the head thereof shall forthwith notify the Director to that effect, and such property shall—

(a) in the event that it is not ordered by competent authority to be returned to any claimant, and in lieu of being disposed of as otherwise provided by law

(including advertisement for sale, and sale), be delivered by such agency, upon order of the Director given within a reasonable time, to any other agency which requests and in the judgment of the Director should be given the property, or

(b) upon order of the Director given within a reasonable time, be disposed of as otherwise provided by law. (Aug. 27, 1935, c. 740, § 303, 49 Stat. 879.)

**§ 304i. Disposition of property subject to pending court proceedings for forfeiture.** In the event that proceedings are or have been commenced for the forfeiture of any property by court decree, the agency which seized such property shall forthwith notify the Director and may at the same time file with him a request for such property for its official use. The Director shall, before entry of a decree, apply to the court to order delivery of such property—

(a) to the agency filing such request; or

(b) if no such request has been filed, to any other agency which requests and in the judgment of the Director should be given such property; or

(c) if the agency which seized such property has not requested it, and no other agency has requested and in the judgment of the Director should be given such property, and if in the judgment of the Director the property may later become necessary to any agency for official use, to the seizing agency to be retained in its custody. Thereafter, the Director shall, within a reasonable time, order such agency to deliver the property to any other agency which requests and in his judgment should be given such property, or to dispose of it as otherwise provided by law, and if forfeiture thereof is decreed, the court shall, in the event that the property is not ordered by competent authority to be returned to any claimant, order delivery accordingly. All the property for which no such application is made shall be disposed of by the court in accordance with law. (Aug. 27, 1935, c. 740, § 304, 49 Stat. 880.)

**§ 304j. Appropriation available for maintenance, etc., of abandoned and forfeited property, payment of liens and other charges.** The appropriation available to any agency for the purchase, hire, operation, maintenance, and repair of property of any kind shall be available for the payment of expenses of operation, maintenance, and repair of property of the same kind received by it under any provision of sections 304g to 304i of this title for official use; for the payment of any lien recognized and allowed pursuant to law, and for the payment of all moneys found to be due any person upon the duly authorized remission or mitigation of any forfeiture; and for reimbursement of other agencies as hereafter provided. The costs of hauling, transporting, towing, and storage of such property shall be paid by the agency which has seized such property or to which it has been abandoned; and, if such property is later delivered to another agency for official use under sections 304g, 304h, or 304i of this title, the latter shall make reimbursement for all such costs incurred prior to the date of delivery to it of such property. (Aug. 27, 1935, c. 740, § 305, 49 Stat. 880.)

**§ 304k. Retention or delivery of abandoned or forfeited property deemed sale with respect to informer's fees and mitigation of forfeiture.** Retention or delivery of forfeited or abandoned property under sections 304g to 304i of this title shall be regarded as the sale thereof for the purpose of laws providing for informer's fees or remission or mitigation of any forfeiture. Any property so acquired when no longer needed for official use shall be disposed of in the same manner as other surplus property. (Aug. 27, 1935, c. 740, § 306, 49 Stat. 880.)

**§ 304L. Reports by agencies concerning abandoned or forfeited property; rules and regulations.** The

Director is authorized, with the approval of the Secretary of the Treasury, (1) to require any agency, from time to time, to make a report of all property abandoned to it or seized and the disposal thereof, and (2) to make such rules and regulations as may be necessary to carry out the provisions of sections 304f to 304m of this title. (Aug. 27, 1935, c. 740, § 307, 49 Stat. 880.)

**§ 304m. Effect on other laws; abandoned or forfeited property excluded from allocation.** Nothing contained in sections 304f to 304m of this title shall be construed as repealing any other laws relating to the disposition of forfeited or abandoned property, except such provisions of such laws as are directly in conflict with any provisions of sections 304f to 304m of this title.

The following classes of property shall not be subject to allocation under sections 304g, 304h, or 304i of this title, but shall be disposed of in the manner otherwise provided by law:

(1) arms or munitions of war included in section 241 of Title 22;

(2) narcotic drugs, as defined in section 171 of Title 21;

(3) firearms, as defined in section 1132 of Title 26; and

(4) such other classes or kinds of property as the Director, with the approval of the Secretary of the Treasury, may deem in the public interest, and may by rules and regulations provide. (Aug. 27, 1935, c. 740, § 308, 49 Stat. 880.)

**§ 313a. Repair and reissue of surplus property.** The reconditioning and repair of surplus property and equipment, for disposition or reissue to government service may be made at cost by the Procurement Division, payment therefor to be effected by charging the proper appropriation and crediting the appropriation "Salaries and expenses, Supply Branch, Procurement Division." (May 14, 1935, c. 110, § 1, 49 Stat. 234.)

## Chapter 6.—ACQUISITION OF SITES FOR AND CONSTRUCTION OF PUBLIC BUILDINGS

**§ 345b. Disposition of obsolete buildings and sites; price; gift of sites to municipalities for street-widening purposes.** In order to suitably dispose of certain Federal buildings and the sites thereof under the control of the Treasury Department, which have been supplanted by new structures, and for which the Secretary of the Treasury has determined there is no further Federal need, he is authorized, in his discretion, if he deems it to be in the best interests of the Government, to sell such buildings and sites or parts of sites to States, counties, municipalities, or other duly constituted political subdivisions of States for public use upon such terms, pursuant to such rules and regulations promulgated by him, as he deems proper, and to convey the same by the usual quitclaim deed, and he may enter into long-term contracts for the payment of the purchase price in such installments as he deems fair and reasonable and may furthermore waive any requirements for interest charges on deferred payments: *Provided*, That the total purchase price shall in no case be less than 50 per centum of the appraised value of the land, the appraisal to be made by the Treasury Department: *Provided further*, That the proceeds of the sales shall be deposited in the Treasury as miscellaneous receipts: *Provided further*, That in the event portions of any Federal building sites under the control of the Treasury Department are desired by municipalities by reason of any duly authorized, comprehensive street-widening program, the Secretary of the Treasury may deed to such municipalities, without cost, such areas needed for street uses as may be dedicated without jeopardy to the Federal interest. (Aug. 26, 1935, c. 684, 49 Stat. 800.)

## TITLE 41.—PUBLIC CONTRACTS

### **§ 6a. Same; exception to section 5; Department of Labor.**

The amount exempted by this section from the application of section 5 was raised from \$50 to \$100 by the Act of Mar. 22, 1935, c. 39, § 1, 49 Stat. 102.

### **§ 6b. Same; exception to section 5; General Accounting Office.**

Repeated, Act Feb. 2, 1935, c. 3, § 1, 49 Stat. 11

### **§ 24a. Cancellation of contracts for transportation; compensation.**

This section was amended by Res. Apr. 24, 1935, c. 78, 49 Stat. 161, by striking out "April 30, 1935" and inserting in lieu thereof "October 31, 1935". It was further amended by Res. Aug. 29, 1935, c. 815, 49 Stat. 991, by striking out "October 31, 1935" and inserting in lieu thereof "March 31, 1936." The amendment of Aug. 29, 1935, also provided that "the right of the United States to annul any fraudulent or illegal contract or to institute suit to recover sums paid thereon is in no manner affected by this joint resolution."

**§ 34. Bids made subject to codes of fair competition; requirements for acceptance.** No bid submitted prior to August 29, 1935 in response to the invitation of any executive department, independent establishment, or other agency or instrumentality of the United States, the District of Columbia, or any corporation all the stock of which is owned by the United States (all of the foregoing being hereinafter designated as "agencies of the United States"), if other-

wise valid and acceptable, shall be rejected because made subject to the provisions of any code or codes of fair competition, or any related requirements (as provided in Executive Order Numbered 6646 of March 14, 1934), if the bidder, with the assent of his surety, shall agree in writing that the contract, if entered into, shall, in lieu of such code provisions or other related requirements, be subject to all Acts of Congress, enacted after August 29, 1935, requiring the observance of minimum wages, maximum hours, or limitations as to age of employees in the performance of contracts with agencies of the United States. In such cases the compensation provided for in the contract shall be reduced from that stated in the bid by the amount that the contracting officer, subject to the approval of the Comptroller General, shall find the cost of performing the contract is reduced solely by reason of the contractor not complying with the provisions of such code or codes or related requirements; and the compensation for the performance of the contract shall be increased from that fixed in the contract by the amount that the contracting officer, subject to the approval of the Comptroller General, shall find the cost of performing the contract has been increased solely by reason of compliance with such subsequent Acts of Congress, if any, relating to the performance of contracts with agencies of the United States. (Aug. 29, 1935, c. 815, 49 Stat. 990.)



## TITLE 42.—THE PUBLIC HEALTH

### Chapter 1.—THE PUBLIC HEALTH SERVICE

§ 64b. "Permanent change of station" in section 64 defined. The words "permanent change of station" as used in section 64 of this title, shall be held to include the home of an officer or man to which he is ordered in connection with retirement. (June 24, 1935, c. 291, § 3, 49 Stat. 421.)

### Chapter 7.—SOCIAL SECURITY ACT

#### TITLE I.—GRANTS TO STATES FOR OLD-AGE ASSISTANCE

- Sec.
- 301. Appropriation
  - 302. State old-age assistance plans; contents; approval by Board.
  - 303. Payment to States; computation of amounts
  - 304. Stopping payment on deviation from required provisions of plan or failure to comply therewith
  - 305. Appropriation for administration.
  - 306. "Old-age assistance" defined

#### TITLE II.—FEDERAL OLD-AGE BENEFITS

- 401. Old-age reserve account; creation; appropriation; investment
- 402. Old-age benefit payments; persons entitled; amounts
- 403. Payments upon death.
- 404. Payments to aged persons not qualified for benefits.
- 405. Amounts of \$500 or less payable to estates without administration.
- 406. Repayment by estate of overpayments during life.
- 407. Method of making payments.
- 408. Assignment of future payments; exemption of payments from execution, etc.
- 409. Penalty for false statement in application.
- 410. Definitions.
- 410a. Limitation on definition of employment.

#### TITLE III.—GRANTS TO STATES FOR UNEMPLOYMENT COMPENSATION ADMINISTRATION

- 501. Appropriation
- 502. Payments to States; computation of amounts.
- 503. State laws, provisions required; stopping payments on failure to comply with law.

#### TITLE IV.—GRANTS TO STATES FOR AID TO DEPENDENT CHILDREN

- 601. Appropriation.
- 602. State plans for aid to dependent children; contents; approval by Board.
- 603. Payment to States; computation of amounts
- 604. Stopping payments on deviation from required provisions of plan or failure to comply therewith.
- 605. Appropriation for administration.
- 606. Definitions

#### TITLE V.—GRANTS TO STATES FOR MATERNAL AND CHILD WELFARE

##### MATERNAL AND CHILD HEALTH SERVICES

- 701. Appropriation.
- 702. Allotments to States
- 703. State plans; contents; approval by Chief of Children's Bureau
- 704. Payment to States; computation of amounts
- 705. Stopping payment on failure to comply with plan.

##### SERVICES FOR CRIPPLED CHILDREN

- 711. Appropriation.
- 712. Allotments to states.
- 713. State plans; contents; approval by Chief of Children's Bureau
- 714. Payment to states; computation of amounts
- 715. Stopping payment on failure to comply with state plan.

##### CHILD-WELFARE SERVICES

- 721. Appropriation; allotments to states.

##### ADMINISTRATION

- 731. Appropriation for administration.

### TITLE VI.—PUBLIC HEALTH WORK

- Sec.
- 801. Appropriation.
  - 802. Allotment of appropriation to states
  - 803. Investigations by Public health Service; appropriation, annual report to Congress

### TITLE VII.—SOCIAL SECURITY BOARD

- 901. Establishment of Board; composition and term of office; compensation.
- 902. Duties of Board
- 903. Expenses of Board, appointment and compensation of officers and employees.
- 904. Annual report to Congress.

### TITLE VIII.—TAXES WITH RESPECT TO EMPLOYMENT

- 1001. Income tax on employees.
- 1002. Deduction of tax from wages.
- 1003. Deductibility from income tax.
- 1004. Excise tax on employers
- 1005. Adjustment of employers' tax.
- 1006. Refunds and deficiencies
- 1007. Collection and payment of taxes.
- 1008. Rules and regulations.
- 1009. Sale by postmasters of stamps or other devices for collection or payment of tax
- 1010. Penalties
- 1011. Definitions.

### TITLE IX.—TAX ON EMPLOYERS OF EIGHT OR MORE

- 1101. Imposition of tax.
- 1102. Credit against tax.
- 1103. Approval and certification of state laws.
- 1104. Unemployment Trust Fund; establishment; investment; payments to states
- 1105. Administration, refunds and penalties.
- 1106. Engaging in interstate commerce not to excuse payment of tax.
- 1107. Definitions
- 1108. Rules and regulations
- 1109. Additional credit against tax.
- 1110. Conditions of additional credit allowance.

### TITLE X.—GRANTS TO STATES FOR AID TO THE BLIND

- 1201. Appropriation.
- 1202. State plans for aid to blind.
- 1203. Payment to states.
- 1204. Change in or failure to comply with plans; stopping payments.
- 1205. Appropriation for administration.
- 1206. "Aid to the blind" defined.

### TITLE XI.—GENERAL PROVISIONS

- 1801. Definitions.
- 1802. Rules and regulations.
- 1803. Separability clause
- 1804. Reservation of right to amend or repeal.
- 1805. Short title of chapter.

### TITLE I.—GRANTS TO STATES FOR OLD-AGE ASSISTANCE

§ 301. **Appropriation.** For the purpose of enabling each State to furnish financial assistance, as far as practicable under the conditions in such State, to aged needy individuals, there is hereby authorized to be appropriated for the fiscal year ending June 30, 1936, the sum of \$49,750,000, and there is hereby authorized to be appropriated for each fiscal year thereafter a sum sufficient to carry out the purposes of sections 301 to 306 of this chapter. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Social Security Board established by section 901 of this chapter (hereinafter referred to as the "Board"), State plans for old-age assistance. (Aug. 14, 1935, c. 531, Title I, § 1, 49 Stat. 620.)

§ 302. **State old-age assistance plans; contents; approval by Board.** (a) A State plan for old-age assistance must (1) provide that it shall be in effect in all political subdivisions of the State, and, if adminis-

tered by them, be mandatory upon them; (2) provide for financial participation by the State; (3) either provide for the establishment or designation of a single State agency to administer the plan, or provide for the establishment or designation of a single State agency to supervise the administration of the plan; (4) provide for granting to any individual, whose claim for old-age assistance is denied, an opportunity for a fair hearing before such State agency; (5) provide such methods of administration (other than those relating to selection, tenure of office, and compensation of personnel) as are found by the Board to be necessary for the efficient operation of the plan; (6) provide that the State agency will make such reports, in such form and containing such information, as the Board may from time to time require, and comply with such provisions as the Board may from time to time find necessary to assure the correctness and verification of such reports; and (7) provide that, if the State or any of its political subdivisions collects from the estate of any recipient of old-age assistance any amount with respect to old-age assistance furnished him under the plan, one-half of the net amount so collected shall be promptly paid to the United States. Any payment so made shall be deposited in the Treasury to the credit of the appropriation for the purposes of sections 301 to 306 of this chapter.

(b) The Board shall approve any plan which fulfills the conditions specified in subsection (a), except that it shall not approve any plan which imposes, as a condition of eligibility for old-age assistance under the plan—

(1) An age requirement of more than sixty-five years, except that the plan may impose, effective until January 1, 1940, an age requirement of as much as seventy years; or

(2) Any residence requirement which excludes any resident of the State who has resided therein five years during the nine years immediately preceding the application for old-age assistance and has resided therein continuously for one year immediately preceding the application; or

(3) Any citizenship requirement which excludes any citizen of the United States. (Aug. 14, 1935, c. 531, Title I, § 2, 49 Stat. 620.)

### § 303. Payment to States; computation of amounts.

(a) From the sums appropriated therefor, the Secretary of the Treasury shall pay to each State which has an approved plan for old-age assistance, for each quarter, beginning with the quarter commencing July 1, 1935, (1) an amount, which shall be used exclusively as old-age assistance, equal to one-half of the total of the sums expended during such quarter as old-age assistance under the State plan with respect to each individual who at the time of such expenditure is sixty-five years of age or older and is not an inmate of a public institution, not counting so much of such expenditure with respect to any individual for any month as exceeds \$30, and (2) 5 per centum of such amount, which shall be used for paying the costs of administering the State plan or for old-age assistance, or both, and for no other purpose: *Provided*, That the State plan, in order to be approved by the Board, need not provide for financial participation before July 1, 1937 by the State, in the case of any State which the Board, upon application by the State and after reasonable notice and opportunity for hearing to the State, finds is prevented by its constitution from providing such financial participation.

(b) The method of computing and paying such amounts shall be as follows:

(1) The Board shall, prior to the beginning of each quarter, estimate the amount to be paid to the State for such quarter under the provisions of clause (1) of subsection (a), such estimate to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such clause, and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than one-half of the total sum of such estimated expendi-

tures, the source or sources from which the difference is expected to be derived, (B) records showing the number of aged individuals in the State, and (C) such other investigation as the Board may find necessary.

(2) The Board shall then certify to the Secretary of the Treasury the amount so estimated by the Board, reduced or increased, as the case may be, by any sum by which it finds that its estimate for any prior quarter was greater or less than the amount which should have been paid to the State under clause (1) of subsection (a) for such quarter, except to the extent that such sum has been applied to make the amount certified for any prior quarter greater or less than the amount estimated by the Board for such prior quarter.

(3) The Secretary of the Treasury shall thereupon, through the Division of Disbursement of the Treasury Department and prior to audit or settlement by the General Accounting Office, pay to the State, at the time or times fixed by the Board, the amount so certified, increased by 5 per centum. (Aug. 14, 1935, c. 531, Title I, § 3, 49 Stat. 621.)

**§ 304. Stopping payment on deviation from required provisions of plan or failure to comply therewith.** In the case of any State plan for old-age assistance which has been approved by the Board, if the Board, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan, finds—

(1) that the plan has been so changed as to impose any age, residence, or citizenship requirement prohibited by section 302 (b), or that in the administration of the plan any such prohibited requirement is imposed, with the knowledge of such State agency, in a substantial number of cases; or

(2) that in the administration of the plan there is a failure to comply substantially with any provision required by section 302 (a) to be included in the plan; the Board shall notify such State agency that further payments will not be made to the State until the Board is satisfied that such prohibited requirement is no longer so imposed, and that there is no longer any such failure to comply. Until it is so satisfied it shall make no further certification to the Secretary of the Treasury with respect to such State. (Aug. 14, 1935, c. 531, Title I, § 4, 49 Stat. 622.)

**§ 305. Appropriation for administration.** There is hereby authorized to be appropriated for the fiscal year ending June 30, 1936, the sum of \$250,000, for all necessary expenses of the Board in administering the provisions of sections 301 to 306 of this chapter. (Aug. 14, 1935, c. 531, Title I, § 5, 49 Stat. 622.)

**§ 306. "Old-age assistance" defined.** When used in sections 301 to 306 of this chapter the term "old-age assistance" means money payments to aged individuals. (Aug. 14, 1935, c. 531, Title I, § 6, 49 Stat. 622.)

## TITLE II.—FEDERAL OLD-AGE BENEFITS

**§ 401. Old-age reserve account; creation; appropriation; investment.** (a) There is hereby created an account in the Treasury of the United States to be known as the "Old-Age Reserve Account" hereinafter in this title called the "Account." There is hereby authorized to be appropriated to the Account for each fiscal year, beginning with the fiscal year ending June 30, 1937, an amount sufficient as an annual premium to provide for the payments required under sections 401 to 410 of this chapter this title, such amount to be determined on a reserve basis in accordance with accepted actuarial principles, and based upon such tables of mortality as the Secretary of the Treasury shall from time to time adopt, and upon an interest rate of 3 per centum per annum compounded annually. The Secretary of the Treasury shall submit annually to the Bureau of the Budget an estimate of the appropriations to be made to the Account.

(b) It shall be the duty of the Secretary of the Treasury to invest such portion of the amounts cred-



ited to the Account as is not, in his judgment, required to meet current withdrawals. Such investment may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose such obligations may be acquired (1) on original issue at par, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under section 752 of Title 31 are hereby extended to authorize the issuance at par of special obligations exclusively to the Account. Such special obligations shall bear interest at the rate of 3 per centum per annum. Obligations other than such special obligations may be acquired for the Account only on such terms as to provide an investment yield of not less than 3 per centum per annum.

(c) Any obligations acquired by the Account (except special obligations issued exclusively to the Account) may be sold at the market price, and such special obligations may be redeemed at par plus accrued interest.

(d) The interest on, and the proceeds from the sale or redemption of, any obligations held in the Account shall be credited to and form a part of the Account.

(e) All amounts credited to the Account shall be available for making payments required under sections 402 to 404 of this chapter.

(f) The Secretary of the Treasury shall include in his annual report the actuarial status of the Account. (Aug. 14, 1935, c. 531, Title II, § 201, 49 Stat. 622.)

**§ 402. Old-age benefit payments; persons entitled; amounts.** (a) Every qualified individual (as defined in section 410 of this chapter) shall be entitled to receive, with respect to the period beginning on the date he attains the age of sixty-five, or on January 1, 1942, whichever is the later, and ending on the date of his death, an old-age benefit (payable as nearly as practicable in equal monthly installments) as follows:

(1) If the total wages (as defined in section 410 of this chapter) determined by the Board to have been paid to him, with respect to employment (as defined in section 410 of this chapter) after December 31, 1936, and before he attained the age of sixty-five, were not more than \$3,000, the old-age benefit shall be at a monthly rate of one-half of 1 per centum of such total wages;

(2) If such total wages were more than \$3,000, the old-age benefit shall be at a monthly rate equal to the sum of the following:

(A) One-half of 1 per centum of \$3,000; plus

(B) One-twelfth of 1 per centum of the amount by which such total wages exceeded \$3,000 and did not exceed \$45,000; plus

(C) One-twenty-fourth of 1 per centum of the amount by which such total wages exceeded \$45,000.

(b) In no case shall the monthly rate computed under subsection (a) exceed \$85.

(c) If the Board finds at any time that more or less than the correct amount has theretofore been paid to any individual under this section, then, under regulations made by the Board, proper adjustments shall be made in connection with subsequent payments under this section to the same individual.

(d) Whenever the Board finds that any qualified individual has received wages with respect to regular employment after he attained the age of sixty-five, the old-age benefit payable to such individual shall be reduced, for each calendar month in any part of which such regular employment occurred, by an amount equal to one month's benefit. Such reduction shall be made, under regulations prescribed by the Board, by deductions from one or more payments of old-age benefit to such individual. (Aug. 14, 1935, c. 531, Title II, § 202, 49 Stat. 623.)

**§ 403. Payments upon death.** (a) If any individual dies before attaining the age of sixty-five, there shall be paid to his estate an amount equal to 3½ per centum of the total wages determined by the

Board to have been paid to him, with respect to employment after December 31, 1936.

(b) If the Board finds that the correct amount of the old-age benefit payable to a qualified individual during his life under section 402 of this chapter was less than 3½ per centum of the total wages by which such old-age benefit was measurable, then there shall be paid to his estate a sum equal to the amount, if any, by which such 3½ per centum exceeds the amount (whether more or less than the correct amount) paid to him during his life as old-age benefit.

(c) If the Board finds that the total amount paid to a qualified individual under an old-age benefit during his life was less than the correct amount to which he was entitled under section 402 of this chapter, and that the correct amount of such old-age benefit was 3½ per centum or more of the total wages by which such old-age benefit was measurable, then there shall be paid to his estate a sum equal to the amount, if any, by which the correct amount of the old-age benefit exceeds the amount which was so paid to him during his life. (Aug. 14, 1935, c. 531, Title II, § 203, 49 Stat. 623.)

**§ 404. Payments to aged persons not qualified for benefits.** (a) There shall be paid in a lump sum to any individual who, upon attaining the age of sixty-five, is not a qualified individual, an amount equal to 3½ per centum of the total wages determined by the Board to have been paid to him, with respect to employment after December 31, 1936, and before he attained the age of sixty-five.

(b) After any individual becomes entitled to any payment under subsection (a), no other payment shall be made under this section or sections 402 and 403 of this chapter in any manner measured by wages paid to him, except that any part of any payment under subsection (a) which is not paid to him before his death shall be paid to his estate. (Aug. 14, 1935, c. 531, Title II, § 204, 49 Stat. 624.)

**§ 405. Amounts of \$500 or less payable to estates without administration.** If any amount payable to an estate under section 403 or 404 of this chapter is \$500 or less, such amount may, under regulations prescribed by the Board, be paid to the persons found by the Board to be entitled thereto under the law of the State in which the deceased was domiciled, without the necessity of compliance with the requirements of law with respect to the administration of such estate. (Aug. 14, 1935, c. 531, Title II, § 205, 49 Stat. 624.)

**§ 406. Repayment by estate of overpayments during life.** If the Board finds that the total amount paid to a qualified individual under an old-age benefit during his life was more than the correct amount to which he was entitled under section 402 of this chapter, and was 3½ per centum or more of the total wages by which such old-age benefit was measurable, then upon his death there shall be repaid to the United States by his estate the amount, if any, by which such total amount paid to him during his life exceeds whichever of the following is the greater: (1) Such 3½ per centum, or (2) the correct amount to which he was entitled under section 402 of this chapter. (Aug. 14, 1935, c. 531, Title II, § 206, 49 Stat. 624.)

**§ 407. Method of making payments.** The Board shall from time to time certify to the Secretary of the Treasury the name and address of each person entitled to receive a payment under sections 402 to 404 of this chapter, the amount of such payment, and the time at which it should be made, and the Secretary of the Treasury through the Division of Disbursement of the Treasury Department, and prior to audit or settlement by the General Accounting Office, shall make payment in accordance with the certification by the Board. (Aug. 14, 1935, c. 531, Title II, § 207, 49 Stat. 624.)

**§ 408. Assignment of future payments; exemption of payments from execution, etc.** The right of any person to any future payment under sections 402 to

404 of this chapter shall not be transferable or assignable, at law or in equity, and none of the moneys paid or payable or rights existing under said sections shall be subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any bankruptcy or insolvency law. (Aug. 14, 1935, c. 531, Title II, § 208, 49 Stat. 625.)

**§ 409. Penalty for false statement in application.** Whoever in any application for any payment under sections 402 to 404 of this chapter makes any false statement as to any material fact, knowing such statement to be false, shall be fined not more than \$1,000 or imprisoned for not more than one year, or both. (Aug. 14, 1935, c. 531, Title II, § 209, 49 Stat. 625.)

**§ 410. Definitions.** When used in sections 401 to 409 of this chapter—

(a) The term "wages" means all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash; except that such term shall not include that part of the remuneration which, after remuneration equal to \$3,000 has been paid to an individual by an employer with respect to employment during any calendar year, is paid to such individual by such employer with respect to employment during such calendar year.

(b) The term "employment" means any service, of whatever nature, performed within the United States by an employee for his employer, except—

- (1) Agricultural labor;
- (2) Domestic service in a private home;
- (3) Casual labor not in the course of the employer's trade or business;
- (4) Service performed as an officer or member of the crew of a vessel documented under the laws of the United States or of any foreign country;
- (5) Service performed in the employ of the United States Government or of an instrumentality of the United States;
- (6) Service performed in the employ of a State, a political subdivision thereof, or an instrumentality of one or more States or political subdivisions;
- (7) Service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(c) The term "qualified individual" means any individual with respect to whom it appears to the satisfaction of the Board that—

- (1) He is at least sixty-five years of age; and
- (2) The total amount of wages paid to him, with respect to employment after December 31, 1936, and before he attained the age of sixty-five, was not less than \$2,000; and
- (3) Wages were paid to him, with respect to employment on some five days after December 31, 1936, and before he attained the age of sixty-five, each day being in a different calendar year. (Aug. 14, 1935, c. 531, Title II, § 210, 49 Stat. 625.)

**§ 410a. Limitation on definition of employment.** The term "employment", as defined in subsection (b) of section 410 of this title, shall not include service performed in the employ of a carrier as defined in subdivision (a) of section 215 of Title 45. (Aug. 29, 1935, c. 812, § 15, 49 Stat. 974.)

### TITLE III—GRANTS TO STATES FOR UNEMPLOYMENT COMPENSATION ADMINISTRATION

**§ 501. Appropriation.** For the purpose of assisting the States in the administration of their unemployment compensation laws, there is hereby authorized to be appropriated, for the fiscal year ending June 30, 1936, the sum of \$4,000,000, and for each fiscal year thereafter the sum of \$49,000,000, to be used as here-

inafter provided. (Aug. 14, 1935, c. 531, Title III, § 301, 49 Stat. 626.)

### § 502. Payments to States; computation of amounts.

(a) The Board shall from time to time certify to the Secretary of the Treasury for payment to each State which has an unemployment compensation law approved by the Board under section 1103 of this chapter, such amounts as the Board determines to be necessary for the proper administration of such law during the fiscal year in which such payment is to be made. The Board's determination shall be based on (1) the population of the State; (2) an estimate of the number of persons covered by the State law and of the cost of proper administration of such law; and (3) such other factors as the Board finds relevant. The Board shall not certify for payment under this section in any fiscal year a total amount in excess of the amount appropriated therefor for such fiscal year.

(b) Out of the sums appropriated therefor, the Secretary of the Treasury shall, upon receiving a certification under subsection (a), pay, through the Division of Disbursement of the Treasury Department and prior to audit or settlement by the General Accounting Office, to the State agency charged with the administration of such law the amount so certified. (Aug. 14, 1935, c. 531, Title III, § 302, 49 Stat. 626.)

### § 503. State laws, provisions required; stopping payments on failure to comply with law.

(a) The Board shall make no certification for payment to any State unless it finds that the law of such State, approved by the Board under section 1103 of this chapter, includes provisions for—

(1) Such methods of administration (other than those relating to selection, tenure of office, and compensation of personnel) as are found by the Board to be reasonably calculated to insure full payment of unemployment compensation when due; and

(2) Payment of unemployment compensation solely through public employment offices in the State or such other agencies as the Board may approve; and

(3) Opportunity for a fair hearing, before an impartial tribunal, for all individuals whose claims for unemployment compensation are denied; and

(4) The payment of all money received in the unemployment fund of such State, immediately upon such receipt, to the Secretary of the Treasury to the credit of the Unemployment Trust Fund established by section 1104 of this chapter; and

(5) Expenditure of all money requisitioned by the State agency from the Unemployment Trust Fund, in the payment of unemployment compensation, exclusive of expenses of administration; and

(6) The making of such reports, in such form and containing such information, as the Board may from time to time require, and compliance with such provisions as the Board may from time to time find necessary to assure the correctness and verification of such reports; and

(7) Making available upon request to any agency of the United States charged with the administration of public works or assistance through public employment, the name, address, ordinary occupation and employment status of each recipient of unemployment compensation, and a statement of such recipient's rights to further compensation under such law.

(b) Whenever the Board, after reasonable notice and opportunity for hearing to the State agency charged with the administration of the State law, finds that in the administration of the law there is—

(1) a denial, in a substantial number of cases, of unemployment compensation to individuals entitled thereto under such law; or

(2) a failure to comply substantially with any provision specified in subsection (a); the Board shall notify such State agency that further payments will not be made to the State until the Board is satisfied that there is no longer any such denial or failure to comply. Until it is so satisfied it shall make no further certification to the Secretary of the Treasury with respect to such State. (Aug. 14, 1935, c. 531, Title III, § 303, 49 Stat. 626.)

#### TITLE IV.—GRANTS TO STATES FOR AID TO DEPENDENT CHILDREN

§ 601. Appropriation. For the purpose of enabling each State to furnish financial assistance, as far as practicable under the conditions in such State, to needy dependent children, there is hereby authorized to be appropriated for the fiscal year ending June 30, 1936, the sum of \$24,750,000, and there is hereby authorized to be appropriated for each fiscal year thereafter a sum sufficient to carry out the purposes of sections 601 to 606 of this chapter. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Board, State plans for aid to dependent children. (Aug. 14, 1935, c. 531, Title IV, § 401, 49 Stat. 627.)

§ 602. State plans for aid to dependent children; contents; approval by Board. (a) A State plan for aid to dependent children must (1) provide that it shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them; (2) provide for financial participation by the State; (3) either provide for the establishment or designation of a single State agency to administer the plan, or provide for the establishment or designation of a single State agency to supervise the administration of the plan; (4) provide for granting to any individual, whose claim with respect to aid to a dependent child is denied, an opportunity for a fair hearing before such State agency; (5) provide such methods of administration (other than those relating to selection, tenure of office, and compensation of personnel) as are found by the Board to be necessary for the efficient operation of the plan; and (6) provide that the State agency will make such reports, in such form and containing such information, as the Board may from time to time require, and comply with such provisions as the Board may from time to time find necessary to assure the correctness and verification of such reports.

(b) The Board shall approve any plan which fulfills the conditions specified in subsection (a), except that it shall not approve any plan which imposes as a condition of eligibility for aid to dependent children, a residence requirement which denies aid with respect to any child residing in the State (1) who has resided in the State for one year immediately preceding the application for such aid, or (2) who was born within the State within one year immediately preceding the application, if its mother has resided in the State for one year immediately preceding the birth. (Aug. 14, 1935, c. 531, Title IV, § 402, 49 Stat. 627.)

§ 603. Payment to States; computation of amounts. (a) From the sums appropriated therefor, the Secretary of the Treasury shall pay to each State which has an approved plan for aid to dependent children, for each quarter, beginning with the quarter commencing July 1, 1935, an amount, which shall be used exclusively for carrying out the State plan, equal to one-third of the total of the sums expended during such quarter under such plan, not counting so much of such expenditure with respect to any dependent child for any month as exceeds \$18, or if there is more than one dependent child in the same home, as exceeds \$18 for any month with respect to one such dependent child and \$12 for such month with respect to each of the other dependent children.

(b) The method of computing and paying such amounts shall be as follows:

(1) The Board shall, prior to the beginning of each quarter, estimate the amount to be paid to the State for such quarter under the provisions of subsection (a), such estimate to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsection and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less

than two-thirds of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, (B) records showing the number of dependent children in the State, and (C) such other investigation as the Board may find necessary.

(2) The Board shall then certify to the Secretary of the Treasury the amount so estimated by the Board, reduced or increased, as the case may be, by any sum by which it finds that its estimate for any prior quarter was greater or less than the amount which should have been paid to the State for such quarter, except to the extent that such sum has been applied to make the amount certified for any prior quarter greater or less than the amount estimated by the Board for such prior quarter.

(3) The Secretary of the Treasury shall thereupon, through the Division of Disbursement of the Treasury Department and prior to audit or settlement by the General Accounting Office, pay to the State, at the time or times fixed by the Board, the amount so certified. (Aug. 14, 1935, c. 531, Title IV, § 403, 49 Stat. 628.)

§ 604. Stopping payments on deviation from required provisions of plan or failure to comply therewith. In the case of any State plan for aid to dependent children which has been approved by the Board, if the Board, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan, finds—

(1) that the plan has been so changed as to impose any residence requirement prohibited by section 602 (b) of this chapter, or that in the administration of the plan any such prohibited requirement is imposed, with the knowledge of such State agency, in a substantial number of cases; or

(2) that in the administration of the plan there is a failure to comply substantially with any provision required by section 602 (a) of this chapter to be included in the plan; the Board shall notify such State agency that further payments will not be made to the State until the Board is satisfied that such prohibited requirement is no longer so imposed, and that there is no longer any such failure to comply. Until it is so satisfied it shall make no further certification to the Secretary of the Treasury with respect to such State. (Aug. 14, 1935, c. 531, Title IV, § 404, 49 Stat. 628.)

§ 605. Appropriation for administration. There is hereby authorized to be appropriated for the fiscal year ending June 30, 1936, the sum of \$250,000 for all necessary expenses of the Board in administering the provisions of sections 601 to 605 of this chapter. (Aug. 14, 1935, c. 531, Title IV, § 405, 49 Stat. 629.)

§ 606. Definitions. When used in sections 601 to 605 of this chapter—

(a) The term "dependent child" means a child under the age of sixteen who has been deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental incapacity of a parent, and who is living with his father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, or aunt, in a place of residence maintained by one or more of such relatives as his or their own home;

(b) The term "aid to dependent children" means money payments with respect to a dependent child or dependent children. (Aug. 14, 1935, c. 531, Title IV, § 406, 49 Stat. 629.)

#### TITLE V.—GRANTS TO STATES FOR MATERNAL AND CHILD WELFARE

##### MATERNAL AND CHILD HEALTH SERVICES

§ 701. Appropriation. For the purpose of enabling each State to extend and improve, as far as practicable under the conditions in such State, services for

promoting the health of mothers and children, especially in rural areas and in areas suffering from severe economic distress, there is hereby authorized to be appropriated for each fiscal year, beginning with the fiscal year ending June 30, 1936, the sum of \$3,800,000. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Chief of the Children's Bureau, State plans for such services. (Aug. 14, 1935, c. 531, Title V, § 501, 49 Stat. 629.)

**§ 702. Allotments to States.** (a) Out of the sums appropriated pursuant to section 501 for each fiscal year the Secretary of Labor shall allot to each State \$20,000, and such part of \$1,800,000 as he finds that the number of live births in such State bore to the total number of live births in the United States, in the latest calendar year for which the Bureau of the Census has available statistics.

(b) Out of the sums appropriated pursuant to section 501 for each fiscal year the Secretary of Labor shall allot to the States \$980,000 (in addition to the allotments made under subsection (a)), according to the financial need of each State for assistance in carrying out its State plan, as determined by him after taking into consideration the number of live births in such State.

(c) The amount of any allotment to a State under subsection (a) for any fiscal year remaining unpaid to such State at the end of such fiscal year shall be available for payment to such State under section 504 until the end of the second succeeding fiscal year. No payment to a State under section 504 shall be made out of its allotment for any fiscal year until its allotment for the preceding fiscal year has been exhausted or has ceased to be available. (Aug. 14, 1935, c. 531, Title V, § 502, 49 Stat. 629.)

**§ 703. State plans; contents; approval by Chief of Children's Bureau.** (a) A State plan for maternal and child-health services must (1) provide for financial participation by the State; (2) provide for the administration of the plan by the State health agency or the supervision of the administration of the plan by the State health agency; (3) provide such methods of administration (other than those relating to selection, tenure of office, and compensation of personnel) as are necessary for the efficient operation of the plan; (4) provide that the State health agency will make such reports, in such form and containing such information, as the Secretary of Labor may from time to time require, and comply with such provisions as he may from time to time find necessary to assure the correctness and verification of such reports; (5) provide for the extension and improvement of local maternal and child-health services administered by local child-health units; (6) provide for cooperation with medical, nursing, and welfare groups and organizations; and (7) provide for the development of demonstration services in needy areas and among groups in special need.

(b) The Chief of the Children's Bureau shall approve any plan which fulfills the conditions specified in subsection (a) and shall thereupon notify the Secretary of Labor and the State health agency of his approval. (Aug. 14, 1935, c. 531, Title V, § 503, 49 Stat. 630.)

**§ 704. Payment to States; computation of amounts.** (a) From the sums appropriated therefor and the allotments available under section 702 (a) of this chapter, the Secretary of the Treasury shall pay to each State which has an approved plan for maternal and child-health services, for each quarter, beginning with the quarter commencing July 1, 1935, an amount, which shall be used exclusively for carrying out the State plan, equal to one-half of the total sum expended during such quarter for carrying out such plan.

(b) The method of computing and paying such amounts shall be as follows:

(1) The Secretary of Labor shall, prior to the beginning of each quarter, estimate the amount to be paid to the State for such quarter under the provi-

sions of subsection (a), such estimate to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsection and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than one-half of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, and (B) such investigation as he may find necessary.

(2) The Secretary of Labor shall then certify the amount so estimated by him to the Secretary of the Treasury, reduced or increased, as the case may be, by any sum by which the Secretary of Labor finds that his estimate for any prior quarter was greater or less than the amount which should have been paid to the State for such quarter, except to the extent that such sum has been applied to make the amount certified for any prior quarter greater or less than the amount estimated by the Secretary of Labor for such prior quarter.

(3) The Secretary of the Treasury shall thereupon, through the Division of Disbursement of the Treasury Department and prior to audit or settlement by the General Accounting Office, pay to the State, at the time or times fixed by the Secretary of Labor, the amount so certified.

(c) The Secretary of Labor shall from time to time certify to the Secretary of the Treasury the amounts to be paid to the States from the allotments available under section 702 (b) of this chapter, and the Secretary of the Treasury shall, through the Division of Disbursement of the Treasury Department and prior to audit or settlement by the General Accounting Office, make payments of such amounts from such allotments at the time or times specified by the Secretary of Labor. (Aug. 14, 1935, c. 531, Title V, § 504, 49 Stat. 630.)

**§ 705. Stopping payment on failure to comply with plan.** In the case of any State plan for maternal and child-health services which has been approved by the Chief of the Children's Bureau, if the Secretary of Labor, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan, finds that in the administration of the plan there is a failure to comply substantially with any provision required by section 703 of this chapter to be included in the plan, he shall notify such State agency that further payments will not be made to the State until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied he shall make no further certification to the Secretary of the Treasury with respect to such State. (Aug. 14, 1935, c. 531, Title V, § 505, 49 Stat. 631.)

#### SERVICES FOR CRIPPLED CHILDREN

**§ 711. Appropriation.** For the purpose of enabling each State to extend and improve (especially in rural areas and in areas suffering from severe economic distress), as far as practicable under the conditions in such State, services for locating crippled children, and for providing medical, surgical, corrective, and other services and care, and facilities for diagnosis, hospitalization, and aftercare, for children who are crippled or who are suffering from conditions which lead to crippling, there is hereby authorized to be appropriated for each fiscal year, beginning with the fiscal year ending June 30, 1936, the sum of \$2,850,000. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Chief of the Children's Bureau, State plans for such services. (Aug. 14, 1935, c. 531, Title V, § 511, 49 Stat. 631.)

**§ 712. Allotments to states.** (a) Out of the sums appropriated pursuant to section 511 of this chapter for each fiscal year the Secretary of Labor shall allot to each State \$20,000, and the remainder to the States according to the need of each State as determined by

him after taking into consideration the number of crippled children in such State in need of the services referred to in section 711 of this chapter and the cost of furnishing such services to them.

(b) The amount of any allotment to a State under subsection (a) for any fiscal year remaining unpaid to such State at the end of such fiscal year shall be available for payment to such State under section 714 of this chapter until the end of the second succeeding fiscal year. No payment to a State under section 514 of this chapter shall be made out of its allotment for any fiscal year until its allotment for the preceding fiscal year has been exhausted or has ceased to be available. (Aug. 14, 1935, c. 531, Title V, § 512, 49 Stat. 631.)

**§ 713. State plans; contents; approval by Chief of Children's Bureau.** (a) A State plan for services for crippled children must (1) provide for financial participation by the State; (2) provide for the administration of the plan by a State agency or the supervision of the administration of the plan by a State agency; (3) provide such methods of administration (other than those relating to selection, tenure of office, and compensation of personnel) as are necessary for the efficient operation of the plan; (4) provide that the State agency will make such reports, in such form and containing such information, as the Secretary of Labor may from time to time require, and comply with such provisions as he may from time to time find necessary to assure the correctness and verification of such reports; (5) provide for carrying out the purposes specified in section 711 of this chapter; and (6) provide for cooperation with medical, health, nursing, and welfare groups and organizations and with any agency in such State charged with administering State laws providing for vocational rehabilitation of physically handicapped children.

(b) The Chief of the Children's Bureau shall approve any plan which fulfills the conditions specified in subsection (a) and shall thereupon notify the Secretary of Labor and the State agency of his approval. (Aug. 14, 1935, c. 531, Title V, § 513, 49 Stat. 632.)

**§ 714. Payment to states; computation of amounts.** (a) From the sums appropriated therefor and the allotments available under section 712 of this chapter, the Secretary of the Treasury shall pay to each State which has an approved plan for services for crippled children, for each quarter, beginning with the quarter commencing July 1, 1935, an amount, which shall be used exclusively for carrying out the State plan, equal to one-half of the total sum expended during such quarter for carrying out such plan.

(b) The method of computing and paying such amounts shall be as follows:

(1) The Secretary of Labor shall, prior to the beginning of each quarter, estimate the amount to be paid to the State for such quarter under the provisions of subsection (a), such estimate to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsection and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than one-half of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, and (B) such investigation as he may find necessary.

(2) The Secretary of Labor shall then certify the amount so estimated by him to the Secretary of the Treasury, reduced or increased, as the case may be, by any sum by which the Secretary of Labor finds that his estimate for any prior quarter was greater or less than the amount which should have been paid to the State for such quarter, except to the extent that such sum has been applied to make the amount certified for any prior quarter greater or less than the amount estimated by the Secretary of Labor for such prior quarter.

(3) The Secretary of the Treasury shall thereupon, through the Division of Disbursement of the Treasury Department and prior to audit or settlement by the General Accounting Office, pay to the State, at the time or times fixed by the Secretary of Labor, the amount so certified. (Aug. 14, 1935, c. 531, Title V, § 514, 49 Stat. 632.)

**§ 715. Stopping payment on failure to comply with state plan.** In the case of any State plan for services for crippled children which has been approved by the Chief of the Children's Bureau, if the Secretary of Labor, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan, finds that in the administration of the plan there is a failure to comply substantially with any provision required by section 713 of this chapter to be included in the plan, he shall notify such State agency that further payments will not be made to the State until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied he shall make no further certification to the Secretary of the Treasury with respect to such State. (Aug. 14, 1935, c. 531, Title V, § 515, 49 Stat. 633.)

#### CHILD—WELFARE SERVICES

**§ 721. Appropriation; allotments to states.** (a) For the purpose of enabling the United States, through the Children's Bureau, to cooperate with State public-welfare agencies in establishing, extending, and strengthening, especially in predominantly rural areas, public-welfare services (hereinafter in this section referred to as "child-welfare services") for the protection and care of homeless, dependent, and neglected children, and children in danger of becoming delinquent, there is hereby authorized to be appropriated for each fiscal year, beginning with the fiscal year ending June 30, 1936, the sum of \$1,500,000. Such amount shall be allotted by the Secretary of Labor for use by cooperating State public-welfare agencies on the basis of plans developed jointly by the State agency and the Children's Bureau, to each State, \$10,000, and the remainder to each State on the basis of such plans, not to exceed such part of the remainder as the rural population of such State bears to the total rural population of the United States. The amount so allotted shall be expended for payment of part of the cost of district, county or other local child-welfare services in areas predominantly rural, and for developing State services for the encouragement and assistance of adequate methods of community child-welfare organization in areas predominantly rural and other areas of special need. The amount of any allotment to a State under this section for any fiscal year remaining unpaid to such State at the end of such fiscal year shall be available for payment to such State under this section until the end of the second succeeding fiscal year. No payment to a State under this section shall be made out of its allotment for any fiscal year until its allotment for the preceding fiscal year has been exhausted or has ceased to be available.

(b) From the sums appropriated therefor and the allotments available under subsection (a) the Secretary of Labor shall from time to time certify to the Secretary of the Treasury the amounts to be paid to the States, and the Secretary of the Treasury shall, through the Division of Disbursement of the Treasury Department and prior to audit or settlement by the General Accounting Office, make payments of such amounts from such allotments at the time or times specified by the Secretary of Labor. (Aug. 14, 1935, c. 531, Title V, § 521, 49 Stat. 633.)

#### ADMINISTRATION

**§ 731. Appropriation for administration.** (a) There is hereby authorized to be appropriated for the fiscal year ending June 30, 1936, the sum of \$125,000, for all necessary expenses of the Children's Bureau in ad-

ministering the provisions of sections 701 to 731 of this chapter.

(b) The Children's Bureau shall make such studies and investigations as will promote the efficient administration of sections 701 to 731 of this chapter.

(c) The Secretary of Labor shall include in his annual report to Congress a full account of the administration of sections 701 to 731 of this chapter. (Aug. 14, 1935, c. 531, Title V, § 541, 49 Stat. 634.)

#### TITLE VI.—PUBLIC HEALTH WORK

§ 801. **Appropriation.** For the purpose of assisting States, counties, health districts, and other political subdivisions of the States in establishing and maintaining adequate public-health services, including the training of personnel for State and local health work, there is hereby authorized to be appropriated for each fiscal year, beginning with the fiscal year ending June 30, 1936, the sum of \$8,000,000 to be used as herein-after provided. (Aug. 14, 1935, c. 531, Title VI, § 601, 49 Stat. 634.)

§ 802. **Allotment of appropriation to states.** (a) The Surgeon General of the Public Health Service, with the approval of the Secretary of the Treasury, shall, at the beginning of each fiscal year, allot to the States the total of (1) the amount appropriated for such year pursuant to section 801 of this chapter; and (2) the amounts of the allotments under this section for the preceding fiscal year remaining unpaid to the States at the end of such fiscal year. The amounts of such allotments shall be determined on the basis of (1) the population; (2) the special health problems; and (3) the financial needs; of the respective States. Upon making such allotments the Surgeon General of the Public Health Service shall certify the amounts thereof to the Secretary of the Treasury.

(b) The amount of an allotment to any State under subsection (a) for any fiscal year, remaining unpaid at the end of such fiscal year, shall be available for allotment to States under subsection (a) for the succeeding fiscal year, in addition to the amount appropriated for such year.

(c) Prior to the beginning of each quarter of the fiscal year, the Surgeon General of the Public Health Service shall, with the approval of the Secretary of the Treasury, determine in accordance with rules and regulations previously prescribed by such Surgeon General after consultation with a conference of the State and Territorial health authorities, the amount to be paid to each State for such quarter from the allotment to such State, and shall certify the amount so determined to the Secretary of the Treasury. Upon receipt of such certification, the Secretary of the Treasury shall, through the Division of Disbursement of the Treasury Department and prior to audit or settlement by the General Accounting Office, pay in accordance with such certification.

(d) The moneys so paid to any State shall be expended solely in carrying out the purposes specified in section 801 of this chapter, and in accordance with plans presented by the health authority of such State and approved by the Surgeon General of the Public Health Service. (Aug. 14, 1935, c. 531, Title VI, § 602, 49 Stat. 634.)

§ 803. **Investigations by Public Health Service; appropriation; annual report to Congress.** (a) There is hereby authorized to be appropriated for each fiscal year, beginning with the fiscal year ending June 30, 1936, the sum of \$2,000,000 for expenditure by the Public Health Service for investigation of disease and problems of sanitation (including the printing and binding of the findings of such investigations), and for the pay and allowances and traveling expenses of personnel of the Public Health Service, including commissioned officers, engaged in such investigations or detailed to cooperate with the health authorities of any State in carrying out the purposes specified in section 801 of this chapter: *Provided*, That no personnel of the Public Health Service shall be detailed to

cooperate with the health authorities of any State except at the request of the proper authorities of such State.

(b) The personnel of the Public Health Service paid from any appropriation not made pursuant to subsection (a) may be detailed to assist in carrying out the purposes of this title. The appropriation from which they are paid shall be reimbursed from the appropriation made pursuant to subsection (a) to the extent of their salaries and allowances for services performed while so detailed.

(c) The Secretary of the Treasury shall include in his annual report to Congress a full account of the administration of this title. (Aug. 14, 1935, c. 531, Title VI, § 603, 49 Stat. 635.)

#### TITLE VII.—SOCIAL SECURITY BOARD

§ 901. **Establishment of Board; composition and term of office; compensation.** There is hereby established a Social Security Board (in this chapter referred to as the "Board") to be composed of three members to be appointed by the President, by and with the advice and consent of the Senate. During his term of membership on the Board, no member shall engage in any other business, vocation, or employment. Not more than two of the members of the Board shall be members of the same political party. Each member shall receive a salary at the rate of \$10,000 a year and shall hold office for a term of six years, except that (1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed, shall be appointed for the remainder of such term; and (2) the terms of office of the members first taking office after August 14, 1935 shall expire, as designated by the President at the time of appointment, one at the end of two years, one at the end of four years, and one at the end of six years, after August 14, 1935. The President shall designate one of the members as the chairman of the Board. (Aug. 14, 1935, c. 531, Title VII, § 701, 49 Stat. 635.)

§ 902. **Duties of Board.** The Board shall perform the duties imposed upon it by this chapter and shall also have the duty of studying and making recommendations as to the most effective methods of providing economic security through social insurance, and as to legislation and matters of administrative policy concerning old-age pensions, unemployment compensation, accident compensation, and related subjects. (Aug. 14, 1935, c. 531, Title VII, § 702, 49 Stat. 636.)

§ 903. **Expenses of Board; appointment and compensation of officers and employees.** The Board is authorized to appoint and fix the compensation of such officers and employees, and to make such expenditures, as may be necessary for carrying out its functions under this chapter. Appointments of attorneys and experts may be made without regard to the civil-service laws. (Aug. 14, 1935, c. 531, Title VII, § 703, 49 Stat. 636.)

§ 904. **Annual report to Congress.** The Board shall make a full report to Congress, at the beginning of each regular session, of the administration of the functions with which it is charged. (Aug. 14, 1935, c. 531, Title VII, § 704, 49 Stat. 636.)

#### TITLE VIII.—TAXES WITH RESPECT TO EMPLOYMENT

§ 1001. **Income tax on employees.** In addition to other taxes, there shall be levied, collected, and paid upon the income of every individual a tax equal to the following percentages of the wages (as defined in section 811) received by him after December 31, 1936, with respect to employment (as defined in section 1011 of this chapter) after such date:

(1) With respect to employment during the calendar years 1937, 1938, and 1939, the rate shall be 1 per centum.



(2) With respect to employment during the calendar years 1940, 1941, and 1942, the rate shall be 1½ per centum.

(3) With respect to employment during the calendar years 1943, 1944, and 1945, the rate shall be 2 per centum.

(4) With respect to employment during the calendar years 1946, 1947, and 1948, the rate shall be 2½ per centum.

(5) With respect to employment after December 31, 1948, the rate shall be 3 per centum. (Aug. 14, 1935, c. 531, Title VIII, § 801, 49 Stat. 636.)

**§ 1002. Deduction of tax from wages.** (a) The tax imposed by section 1001 of this chapter shall be collected by the employer of the taxpayer, by deducting the amount of the tax from the wages as and when paid. Every employer required so to deduct the tax is hereby made liable for the payment of such tax, and is hereby indemnified against the claims and demands of any person for the amount of any such payment made by such employer.

(b) If more or less than the correct amount of tax imposed by section 1001 of this chapter is paid with respect to any wage payment, then, under regulations made under this title, proper adjustments, with respect both to the tax and the amount to be deducted, shall be made, without interest, in connection with subsequent wage payments to the same individual by the same employer. (Aug. 14, 1935, c. 531, Title VIII, § 802, 49 Stat. 636.)

**§ 1003. Deductibility from income tax.** For the purposes of the income tax imposed by sections 11 and 12 of Title 26 or by any Act of Congress in substitution therefor, the tax imposed by section 1001 of this chapter shall not be allowed as a deduction to the taxpayer in computing his net income for the year in which such tax is deducted from his wages. (Aug. 14, 1935, c. 531, Title VIII, § 803, 49 Stat. 637.)

**§ 1004. Excise tax on employers.** In addition to other taxes, every employer shall pay an excise tax, with respect to having individuals in his employ, equal to the following percentages of the wages (as defined in section 1011 of this chapter) paid by him after December 31, 1936, with respect to employment (as defined in section 1011 of this chapter) after such date:

(1) With respect to employment during the calendar years 1937, 1938, and 1939, the rate shall be 1 per centum.

(2) With respect to employment during the calendar years 1940, 1941, and 1942, the rate shall be 1½ per centum.

(3) With respect to employment during the calendar years 1943, 1944, and 1945, the rate shall be 2 per centum.

(4) With respect to employment during the calendar years 1946, 1947, and 1948, the rate shall be 2½ per centum.

(5) With respect to employment after December 31, 1948, the rate shall be 3 per centum. (Aug. 14, 1935, c. 531, Title VIII, § 804, 49 Stat. 637.)

**§ 1005. Adjustment of employers' tax.** If more or less than the correct amount of tax imposed by section 1004 of this chapter is paid with respect to any wage payment, then, under regulations made under this title, proper adjustments with respect to the tax shall be made, without interest, in connection with subsequent wage payments to the same individual by the same employer. (Aug. 14, 1935, c. 531, Title VIII, § 805, 49 Stat. 637.)

**§ 1006. Refunds and deficiencies.** If more or less than the correct amount of tax imposed by section 1001 or 1004 of this chapter is paid or deducted with respect to any wage payment and the overpayment or underpayment of tax cannot be adjusted under section 1002 (b) or 1005 of this chapter the amount of the overpayment shall be refunded and the amount of the underpayment shall be collected, in such manner

and at such times (subject to the statutes of limitations properly applicable thereto) as may be prescribed by regulations made under sections 1001 to 1011 of this chapter. (Aug. 14, 1935, c. 531, Title VIII, § 806, 49 Stat. 637.)

**§ 1007. Collection and payment of taxes.** (a) The taxes imposed by sections 1001 and 1004 of this chapter shall be collected by the Bureau of Internal Revenue under the direction of the Secretary of the Treasury and shall be paid into the Treasury of the United States as internal-revenue collections. If the tax is not paid when due, there shall be added as part of the tax interest (except in the case of adjustments made in accordance with the provisions of sections 1002 (b) and 1005) at the rate of one-half of 1 per centum per month from the date the tax became due until paid.

(b) Such taxes shall be collected and paid in such manner, at such times, and under such conditions, not inconsistent with sections 1001 to 1011 of this chapter (either by making and filing returns, or by stamps, coupons, tickets, books, or other reasonable devices or methods necessary or helpful in securing a complete and proper collection and payment of the tax or in securing proper identification of the taxpayer), as may be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury.

(c) All provisions of law, including penalties, applicable with respect to any tax imposed by sections 901 to 906, 1120 and 1124 (a) of Title 26, and the provisions of section 1551 of Title 26, shall, insofar as applicable and not inconsistent with the provisions of sections 1001 to 1011 of this chapter, be applicable with respect to the taxes imposed by sections 1001 to 1011 of this chapter.

(d) In the payment of any tax under sections 1001 and 1004 of this chapter a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to 1 cent. (Aug. 14, 1935, c. 531, Title VIII, § 807, 49 Stat. 637.)

**§ 1008. Rules and regulations.** The Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall make and publish rules and regulations for the enforcement of sections 1001 to 1011 of this chapter. (Aug. 14, 1935, c. 531, Title VIII, § 808, 49 Stat. 638.)

**§ 1009. Sale by postmasters of stamps or other devices for collection or payment of tax.** The Commissioner of Internal Revenue shall furnish to the Postmaster General without prepayment a suitable quantity of stamps, coupons, tickets, books, or other devices prescribed by the Commissioner under section 1007 of this chapter for the collection or payment of any tax imposed by this title, to be distributed to, and kept on sale by, all post offices of the first and second classes, and such post offices of the third and fourth classes as (1) are located in county seats, or (2) are certified by the Secretary of the Treasury to the Postmaster General as necessary to the proper administration of sections 1001 to 1011 of this chapter. The Postmaster General may require each such postmaster to furnish bond in such increased amount as he may from time to time determine, and each such postmaster shall deposit the receipts from the sale of such stamps, coupons, tickets, books, or other devices, to the credit of, and render accounts to, the Postmaster General at such times and in such form as the Postmaster General may by regulations prescribe. The Postmaster General shall at least once a month transfer to the Treasury as internal-revenue collections all receipts so deposited together with a statement of the additional expenditures in the District of Columbia and elsewhere incurred by the Post Office Department in performing the duties imposed upon said Department by this section, and the Secretary of the Treasury is hereby authorized and directed to advance from time to time to the credit of the Post Office Department from appropriations made for the collection of the



taxes imposed by sections 1001 to 1011 of this chapter, such sums as may be required for such additional expenditures incurred by the Post Office Department. (Aug. 14, 1935, c. 531, Title VIII, § 809, 49 Stat. 638.)

§ 1010. **Penalties.** (a) Whoever buys, sells, offers for sale, uses, transfers, takes or gives in exchange, or pledges or gives in pledge, except as authorized in sections 1001 to 1011 of this chapter or in regulations made pursuant thereto, any stamp, coupon, ticket, book, or other device, prescribed by the Commissioner of Internal Revenue under section 1007 of this chapter for the collection or payment of any tax imposed by sections 1001 to 1011 of this chapter, shall be fined not more than \$1,000 or imprisoned for not more than six months, or both.

(b) Whoever, with intent to defraud, alters, forges, makes, or counterfeits any stamp, coupon, ticket, book, or other device prescribed by the Commissioner of Internal Revenue under section 1007 of this chapter for the collection or payment of any tax imposed by sections 1001 to 1011 of this chapter, or uses, sells, lends, or has in his possession any such altered, forged, or counterfeited stamp, coupon, ticket, book, or other device, or makes, uses, sells, or has in his possession any material in imitation of the material used in the manufacture of such stamp, coupon, ticket, book, or other device, shall be fined not more than \$5,000 or imprisoned not more than five years, or both. (Aug. 14, 1935, c. 531, Title VIII, § 810, 49 Stat. 638.)

§ 1011. **Definitions.** When used in sections 1001 to 1010 of this chapter—

(a) The term "wages" means all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash, except that such term shall not include that part of the remuneration which, after remuneration equal to \$3,000 has been paid to an individual by an employer with respect to employment during any calendar year, is paid to such individual by such employer with respect to employment during such calendar year.

(b) The term "employment" means any service, of whatever nature, performed within the United States by an employee for his employer, except—

- (1) Agricultural labor;
- (2) Domestic service in a private home;
- (3) Casual labor not in the course of the employer's trade or business;
- (4) Service performed by an individual who has attained the age of sixty-five;
- (5) Service performed as an officer or member of the crew of a vessel documented under the laws of the United States or of any foreign country;
- (6) Service performed in the employ of the United States Government or of an instrumentality of the United States;
- (7) Service performed in the employ of a State, a political subdivision thereof, or an instrumentality of one or more States or political subdivisions;
- (8) Service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual. (Aug. 14, 1935, c. 531, Title VIII, § 811, 49 Stat. 639.)

#### TITLE IX.—TAX ON EMPLOYERS OF EIGHT OR MORE

§ 1101. **Imposition of tax.** On and after January 1, 1936, every employer (as defined in section 1107 of this chapter) shall pay for each calendar year an excise tax, with respect to having individuals in his employ, equal to the following percentages of the total wages (as defined in section 1107 of this chapter) payable by him (regardless of the time of payment) with respect to employment (as defined in section 1107 of this chapter) during such calendar year:

- (1) With respect to employment during the calendar year 1936 the rate shall be 1 per centum;

- (2) With respect to employment during the calendar year 1937 the rate shall be 2 per centum;

- (3) With respect to employment after December 31, 1937, the rate shall be 3 per centum. (Aug. 14, 1935, c. 531, Title IX, § 901, 49 Stat. 639.)

§ 1102. **Credit against tax.** The taxpayer may credit against the tax imposed by section 1101 of this chapter the amount of contributions, with respect to employment during the taxable year, paid by him (before the date of filing his return for the taxable year) into an unemployment fund under a State law. The total credit allowed to a taxpayer under this section for all contributions paid into unemployment funds with respect to employment during such taxable year shall not exceed 90 per centum of the tax against which it is credited, and credit shall be allowed only for contributions made under the laws of States certified for the taxable year as provided in section 1103 of this chapter. (Aug. 14, 1935, c. 531, Title IX, § 902, 49 Stat. 639.)

#### § 1103. Approval and certification of state laws.

(a) The Social Security Board shall approve any State law submitted to it, within thirty days of such submission, which it finds provides that—

- (1) All compensation is to be paid through public employment offices in the State or such other agencies as the Board may approve;

- (2) No compensation shall be payable with respect to any day of unemployment occurring within two years after the first day of the first period with respect to which contributions are required;

- (3) All money received in the unemployment fund shall immediately upon such receipt be paid over to the Secretary of the Treasury to the credit of the Unemployment Trust Fund established by section 1104 of this chapter;

- (4) All money withdrawn from the Unemployment Trust Fund by the State agency shall be used solely in the payment of compensation, exclusive of expenses of administration;

- (5) Compensation shall not be denied in such State to any otherwise eligible individual for refusing to accept new work under any of the following conditions: (A) If the position offered is vacant due directly to a strike, lockout, or other labor dispute; (B) if the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality; (C) if as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization;

- (6) All the rights, privileges, or immunities conferred by such law or by acts done pursuant thereto shall exist subject to the power of the legislature to amend or repeal such law at any time.

The Board shall, upon approving such law, notify the Governor of the State of its approval.

- (b) On December 31 in each taxable year the Board shall certify to the Secretary of the Treasury each State whose law it has previously approved, except that it shall not certify any State which, after reasonable notice and opportunity for hearing to the State agency, the Board finds has changed its law so that it no longer contains the provisions specified in subsection (a) or has with respect to such taxable year failed to comply substantially with any such provision.

- (c) If, at any time during the taxable year, the Board has reason to believe that a State whose law it has previously approved, may not be certified under subsection (b), it shall promptly so notify the Governor of such State. (Aug. 14, 1935, c. 531, Title IX, § 903, 49 Stat. 640.)

§ 1104. **Unemployment Trust Fund; establishment; investment; payments to states.** (a) There is hereby established in the Treasury of the United States a trust fund to be known as the "Unemployment Trust Fund", hereinafter called the "Fund". The Secretary of the Treasury is authorized and directed to receive and hold in the Fund all moneys deposited therein by a State agency from a State unemployment

fund. Such deposit may be made directly with the Secretary of the Treasury or with any Federal reserve bank or member bank of the Federal Reserve System designated by him for such purpose.

(b) It shall be the duty of the Secretary of the Treasury to invest such portion of the Fund as is not, in his judgment, required to meet current withdrawals. Such investment may be made only in interest bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose such obligations may be acquired (1) on original issue at par, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under section 752 of Title 31, are hereby extended to authorize the issuance at par of special obligations exclusively to the Fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as of the end of the calendar month next preceding the date of such issue, borne by all interest-bearing obligations of the United States then forming part of the public debt; except that where such average rate is not a multiple of one-eighth of 1 per centum, the rate of interest of such special obligations shall be the multiple of one-eighth of 1 per centum next lower than such average rate. Obligations other than such special obligations may be acquired for the Fund only on such terms as to provide an investment yield not less than the yield which would be required in the case of special obligations if issued to the Fund upon the date of such acquisition.

(c) Any obligations acquired by the Fund (except special obligations issued exclusively to the Fund) may be sold at the market price, and such special obligations may be redeemed at par plus accrued interest.

(d) The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund.

(e) The Fund shall be invested as a single fund, but the Secretary of the Treasury shall maintain a separate book account for each State agency and shall credit quarterly on March 31, June 30, September 30, and December 31, of each year, to each account, on the basis of the average daily balance of such account, a proportionate part of the earnings of the Fund for the quarter ending on such date.

(f) The Secretary of the Treasury is authorized and directed to pay out of the Fund to any State agency such amount as it may duly requisition, not exceeding the amount standing to the account of such State agency at the time of such payment. (Aug. 14, 1935, c. 531, Title IX, § 904, 49 Stat. 640.)

**§ 1105. Administration, refunds and penalties.—(a) Collection; penalties.** The tax imposed by section 1101 of this chapter shall be collected by the Bureau of Internal Revenue under the direction of the Secretary of the Treasury and shall be paid into the Treasury of the United States as internal-revenue collections. If the tax is not paid when due, there shall be added as part of the tax interest at the rate of one-half of 1 per centum per month from the date the tax became due until paid.

(b) **Returns.** Not later than January 31, next following the close of the taxable year, each employer shall make a return of the tax under sections 1101 to 1110 of this chapter for such taxable year. Each such return shall be made under oath, shall be filed with the collector of internal revenue for the district in which is located the principal place of business of the employer, or, if he has no principal place of business in the United States, then with the collector at Baltimore, Maryland, and shall contain such information and be made in such manner as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may by regulations prescribe. All provisions of law (including penalties) applicable in respect of the taxes imposed by sections

901 to 906 and 1120 of Title 26, shall, insofar as not inconsistent with sections 1101 to 1110 of this chapter, be applicable in respect of the tax imposed by sections 1101 to 1110 of this chapter. The Commissioner may extend the time for filing the return of the tax imposed by sections 1101 to 1110 of this chapter, under such rules and regulations as he may prescribe with the approval of the Secretary of the Treasury, but no such extension shall be for more than sixty days.

(c) **Inspection of returns.** Returns filed under sections 1101 to 1110 of this chapter shall be open to inspection in the same manner, to the same extent, and subject to the same provisions of law, including penalties, as returns made under section 55 of Title 26.

(d) **Payment in installments.** The taxpayer may elect to pay the tax in four equal installments instead of in a single payment, in which case the first installment shall be paid not later than the last day prescribed for the filing of returns, the second installment shall be paid on or before the last day of the third month, the third installment on or before the last day of the sixth month, and the fourth installment on or before the last day of the ninth month, after such last day. If the tax or any installment thereof is not paid on or before the last day of the period fixed for its payment, the whole amount of the tax unpaid shall be paid upon notice and demand from the collector.

(e) **Extension of time for payment.** At the request of the taxpayer the time for payment of the tax or any installment thereof may be extended under regulations prescribed by the Commissioner with the approval of the Secretary of the Treasury, for a period not to exceed six months from the last day of the period prescribed for the payment of the tax or any installment thereof. The amount of the tax in respect of which any extension is granted shall be paid (with interest at the rate of one-half of 1 per centum per month) on or before the date of the expiration of the period of the extension.

(f) **Fractional part of cent.** In the payment of any tax under sections 1101 to 1110 of this chapter a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to 1 cent. (Aug. 14, 1935, c. 531, Title IX, § 905, 49 Stat. 641.)

**§ 1106. Engaging in interstate commerce not to excuse payment of tax.** No person required under a State law to make payments to an unemployment fund shall be relieved from compliance therewith on the ground that he is engaged in interstate commerce, or that the State law does not distinguish between employees engaged in interstate commerce and those engaged in intrastate commerce. (Aug. 14, 1935, c. 531, Title IX, § 906, 49 Stat. 642.)

**§ 1107. Definitions.** When used in sections 1101 to 1110 of this chapter—

(a) The term "employer" does not include any person unless on each of some twenty days during the taxable year, each day being in a different calendar week, the total number of individuals who were in his employ for some portion of the day (whether or not at the same moment of time) was eight or more.

(b) The term "wages" means all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash.

(c) The term "employment" means any service, of whatever nature, performed within the United States by an employee for his employer, except—

(1) Agricultural labor;  
(2) Domestic service in a private home;  
(3) Service performed as an officer or member of the crew of a vessel on the navigable waters of the United States;

(4) Service performed by an individual in the employ of his son, daughter, or spouse, and service performed by a child under the age of twenty-one in the employ of his father or mother;

(5) Service performed in the employ of the United States Government or of an instrumentality of the United States;

(6) Service performed in the employ of a State, a political subdivision thereof, or an instrumentality of one or more States or political subdivisions;

(7) Service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(d) The term "State agency" means any State officer, board, or other authority, designated under a State law to administer the unemployment fund in such State.

(e) The term "unemployment fund" means a special fund, established under a State law and administered by a State agency, for the payment of compensation.

(f) The term "contributions" means payments required by a State law to be made by an employer into an unemployment fund, to the extent that such payments are made by him without any part thereof being deducted or deductible from the wages of individuals in his employ.

(g) The term "compensation" means cash benefits payable to individuals with respect to their unemployment. (Aug. 14, 1935, c. 531, Title IX, § 907, 49 Stat. 642.)

**§ 1108. Rules and regulations.** The Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall make and publish rules and regulations for the enforcement of sections 1101 to 1110 of this chapter, except sections 1103, 1104 and 1110. (Aug. 14, 1935, c. 531, Title IX, § 908, 49 Stat. 643.)

**§ 1109. Additional credit against tax.** (a) In addition to the credit allowed under section 1102 of this chapter, a taxpayer may, subject to the conditions imposed by section 1110 of this chapter, credit against the tax imposed by section 1101 of this chapter for any taxable year after the taxable year 1937, an amount, with respect to each State law, equal to the amount, if any, by which the contributions, with respect to employment in such taxable year, actually paid by the taxpayer under such law before the date of filing his return for such taxable year, is exceeded by whichever of the following is the lesser—

(1) The amount of contributions which he would have been required to pay under such law for such taxable year if he had been subject to the highest rate applicable from time to time throughout such year to any employer under such law; or

(2) Two and seven-tenths per centum of the wages payable by him with respect to employment with respect to which contributions for such year were required under such law.

(b) If the amount of the contributions actually so paid by the taxpayer is less than the amount which he should have paid under the State law, the additional credit under subsection (a) shall be reduced proportionately.

(c) The total credits allowed to a taxpayer under sections 1101 to 1110 of this chapter shall not exceed 90 per centum of the tax against which such credits are taken. (Aug. 14, 1935, c. 531, Title IX, § 909, 49 Stat. 643.)

**§ 1110. Conditions of additional credit allowance.**

(a) A taxpayer shall be allowed the additional credit under section 1109 of this chapter, with respect to his contribution rate under a State law being lower, for any taxable year, than that of another employer subject to such law, only if the Board finds that under such law—

(1) Such lower rate, with respect to contributions to a pooled fund, is permitted on the basis of not less than three years of compensation experience;

(2) Such lower rate, with respect to contributions to a guaranteed employment account, is permitted only when his guaranty of employment was fulfilled in the preceding calendar year, and such guaranteed employment account amounts to not less than 7½ per centum of the total wages payable by him, in accordance with such guaranty, with respect to employment in such State in the preceding calendar year;

(3) Such lower rate, with respect to contributions to a separate reserve account, is permitted only when (A) compensation has been payable from such account throughout the preceding calendar year, and (B) such account amounts to not less than five times the largest amount of compensation paid from such account within any one of the three preceding calendar years, and (C) such account amounts to not less than 7½ per centum of the total wages payable by him (plus the total wages payable by any other employers who may be contributing to such account) with respect to employment in such State in the preceding calendar year.

(b) Such additional credit shall be reduced, if any contributions under such law are made by such taxpayer at a lower rate under conditions not fulfilling the requirements of subsection (a), by the amount bearing the same ratio to such additional credit as the amount of contributions made at such lower rate bears to the total of his contributions paid for such year under such law.

(c) As used in this section—

(1) The term "reserve account" means a separate account in an unemployment fund, with respect to an employer or group of employers, from which compensation is payable only with respect to the unemployment of individuals who were in the employ of such employer, or of one of the employers comprising the group.

(2) The term "pooled fund" means an unemployment fund or any part thereof in which all contributions are mingled and undivided, and from which compensation is payable to all eligible individuals, except that to individuals last employed by employers with respect to whom reserve accounts are maintained by the State agency, it is payable only when such accounts are exhausted.

(3) The term "guaranteed employment account" means a separate account, in an unemployment fund, of contributions paid by an employer (or group of employers) who

(A) guarantees in advance thirty hours of wages for each of forty calendar weeks (or more, with one weekly hour deducted for each added week guaranteed) in twelve months, to all the individuals in his employ in one or more distinct establishments, except that any such individual's guaranty may commence after a probationary period (included within twelve or less consecutive calendar weeks), and

(B) gives security or assurance, satisfactory to the State agency, for the fulfillment of such guaranties, from which account compensation shall be payable with respect to the unemployment of any such individual whose guaranty is not fulfilled or renewed and who is otherwise eligible for compensation under the State law.

(4) The term "year of compensation experience", as applied to an employer, means any calendar year throughout which compensation was payable with respect to any individual in his employ who became unemployed and was eligible for compensation. (Aug. 14, 1935, c. 531, Title IX, § 910, 49 Stat. 644.)

## TITLE X.—GRANTS TO STATES FOR AID TO THE BLIND

**§ 1201. Appropriation.** For the purpose of enabling each State to furnish financial assistance, as far as practicable under the conditions in such State, to needy individuals who are blind, there is hereby authorized to be appropriated for the fiscal year ending June 30, 1936, the sum of \$3,000,000, and there is hereby authorized to be appropriated for each fiscal

year thereafter a sum sufficient to carry out the purposes of sections 1201 to 1206 of this chapter. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Social Security Board, State plans for aid to the blind. (Aug. 14, 1935, c. 531, Title X, § 1001, 49 Stat. 645.)

§ 1202. **State plans for aid to blind.** (a) A State plan for aid to the blind must (1) provide that it shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them; (2) provide for financial participation by the State; (3) either provide for the establishment or designation of a single State agency to administer the plan, or provide for the establishment or designation of a single State agency to supervise the administration of the plan; (4) provide for granting to any individual, whose claim for aid is denied, an opportunity for a fair hearing before such State agency; (5) provide such methods of administration (other than those relating to selection, tenure of office, and compensation of personnel) as are found by the Board to be necessary for the efficient operation of the plan; (6) provide that the State agency will make such reports, in such form and containing such information, as the Board may from time to time require, and comply with such provisions as the Board may from time to time find necessary to assure the correctness and verification of such reports; and (7) provide that no aid will be furnished any individual under the plan with respect to any period with respect to which he is receiving old-age assistance under the State plan approved under section 302 of this chapter.

(b) The Board shall approve any plan which fulfills the conditions specified in subsection (a), except that it shall not approve any plan which imposes, as a condition of eligibility for aid to the blind under the plan—

(1) Any residence requirement which excludes any resident of the State who has resided therein five years during the nine years immediately preceding the application for aid and has resided therein continuously for one year immediately preceding the application; or

(2) Any citizenship requirement which excludes any citizen of the United States. (Aug. 14, 1935, c. 531, Title X, § 1002, 49 Stat. 645.)

§ 1203. **Payment to states.** (a) From the sums appropriated therefor, the Secretary of the Treasury shall pay to each State which has an approved plan for aid to the blind, for each quarter, beginning with the quarter commencing July 1, 1935, (1) an amount, which shall be used exclusively as aid to the blind, equal to one-half of the total of the sums expended during such quarter as aid to the blind under the State plan with respect to each individual who is blind and is not an inmate of a public institution, not counting so much of such expenditure with respect to any individual for any month as exceeds \$30, and (2) 5 per centum of such amount, which shall be used for paying the costs of administering the State plan or for aid to the blind, or both, and for no other purpose.

(b) The method of computing and paying such amounts shall be as follows:

(1) The Board shall, prior to the beginning of each quarter, estimate the amount to be paid to the State for such quarter under the provisions of clause (1) of subsection (a), such estimate to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such clause, and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than one-half of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, (B) records showing the number of blind individuals in the State, and

(C) such other investigation as the Board may find necessary.

(2) The Board shall then certify to the Secretary of the Treasury the amount so estimated by the Board, reduced or increased, as the case may be, by any sum by which it finds that its estimate for any prior quarter was greater or less than the amount which should have been paid to the State under clause (1) of subsection (a) for such quarter, except to the extent that such sum has been applied to make the amount certified for any prior quarter greater or less than the amount estimated by the Board for such prior quarter.

(3) The Secretary of the Treasury shall thereupon, through the Division of Disbursement of the Treasury Department and prior to audit or settlement by the General Accounting Office, pay to the State, at the time or times fixed by the Board, the amount so certified, increased by 5 per centum. (Aug. 14, 1935, c. 531, Title X, § 1003, 49 Stat. 646.)

§ 1204. **Change in or failure to comply with plans; stopping payments.** In the case of any State plan for aid to the blind which has been approved by the Board, if the Board, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan, finds—

(1) that the plan has been so changed as to impose any residence or citizenship requirement prohibited by section 1202(b) of this chapter, or that in the administration of the plan any such prohibited requirement is imposed, with the knowledge of such State agency, in a substantial number of cases; or

(2) that in the administration of the plan there is a failure to comply substantially with any provision required by section 1202 of this chapter to be included in the plan;

the Board shall notify such State agency that further payments will not be made to the State until the Board is satisfied that such prohibited requirement is no longer so imposed, and that there is no longer any such failure to comply. Until it is so satisfied it shall make no further certification to the Secretary of the Treasury with respect to such State. (Aug. 14, 1935, c. 531, Title X, § 1004, 49 Stat. 646.)

§ 1205. **Appropriation for administration.** There is hereby authorized to be appropriated for the fiscal year ending June 30, 1936, the sum of \$30,000, for all necessary expenses of the Board in administering the provisions of sections 1201 to 1204 of this chapter. (Aug. 14, 1935, c. 531, Title X, § 1005, 49 Stat. 647.)

§ 1206. **"Aid to the blind" defined.** When used in sections 1201 to 1204 of this chapter the term "aid to the blind" means money payments to blind individuals. (Aug. 14, 1935, c. 531, Title X, § 1006, 49 Stat. 647.)

## TITLE XI.—GENERAL PROVISIONS

§ 1301. **Definitions.** (a) When used in this chapter—

(1) The term "State" (except when used in section 531) includes Alaska, Hawaii, and the District of Columbia.

(2) The term "United States" when used in a geographical sense means the States, Alaska, Hawaii, and the District of Columbia.

(3) The term "person" means an individual, a trust or estate, a partnership, or a corporation.

(4) The term "corporation" includes associations, joint-stock companies, and insurance companies.

(5) The term "shareholder" includes a member in an association, joint-stock company, or insurance company.

(6) The term "employee" includes an officer of a corporation.

(b) The terms "includes" and "including" when used in a definition contained in this chapter shall not be deemed to exclude other things otherwise within the meaning of the term defined.

(c) Whenever under this chapter or any Act of Congress, or under the law of any State, an employer is required or permitted to deduct any amount from the remuneration of an employee and to pay the amount deducted to the United States, a State, or any political subdivision thereof, then for the purposes of this chapter the amount so deducted shall be considered to have been paid to the employee at the time of such deduction.

(d) Nothing in this chapter shall be construed as authorizing any Federal official, agent, or representative, in carrying out any of the provisions of this chapter, to take charge of any child over the objection of either of the parents of such child, or of the person standing in loco parentis to such child. (Aug. 14, 1935, c. 531, Title X, § 1101, 49 Stat. 647.)

§ 1302. Rules and Regulations. The Secretary of the Treasury, the Secretary of Labor, and the Social Security Board, respectively, shall make and publish

such rules and regulations, not inconsistent with this chapter, as may be necessary to the efficient administration of the functions with which each is charged under this chapter. (Aug. 14, 1935, c. 531, Title X, § 1102, 49 Stat. 647.)

§ 1303. Separability clause. If any provision of this chapter, or the application thereof to any person or circumstance, is held invalid, the remainder of the chapter, and the application of such provision to other persons or circumstances shall not be affected thereby. (Aug. 14, 1935, c. 531, Title X, § 1103, 49 Stat. 648.)

§ 1304. Reservation of right to amend or repeal. The right to alter, amend, or repeal any provision of this chapter is hereby reserved to the Congress. (Aug. 14, 1935, c. 531, Title X, § 1104, 49 Stat. 648.)

§ 1305. Short title of chapter. This chapter may be cited as the "Social Security Act". (Aug. 14, 1935, c. 531, Title X, § 1105, 49 Stat. 648.)

## TITLE 43.—PUBLIC LANDS

### Chapter 1.—GENERAL LAND OFFICE

#### § 8. Clerk to sign land patents.

Repeated, Act May 9, 1935, c. 101, § 1, 49 Stat. 180.

### Chapter 2.—GEOLOGICAL SURVEY

#### § 46. Exchange of old freight-carrying vehicles as part payment for new.

Repeated, Act May 9, 1935, c. 101, § 1, 49 Stat. 200.

§ 49. **Extension of cooperative work to Puerto Rico.** The provisions of law authorizing the making of topographic and geological surveys and conducting investigations relating to mineral and water resources by the United States Geological Survey in various portions of the United States be, and the same are hereby, extended to authorize such surveys and investigations in Puerto Rico. (June 17, 1935, c. 268, 49 Stat. 386.)

### Chapter 4.—REGISTERS AND RECEIVERS

§ 80. **Salary, fees and commissions of registers.** From and after September 1, 1935 the compensation of registers of district land offices shall be a salary of \$2,000 per annum each, and all fees and commissions now allowed by law to such registers, but the salary, fees, and commissions of such registers shall not exceed \$3,600 each per annum: *Provided*, That the salary of the register of the Juneau land district, Alaska, shall be \$3,600 per annum. (As amended Aug. 22, 1935, c. 602, 49 Stat. 680.)

#### § 90. Expenses incurred.

Repeated, Act May 9, 1935, c. 101, § 1, 49 Stat. 180.

### Chapter 7.—HOMESTEADS

#### LEAVES OF ABSENCE AND EXCUSES FOR NON-RESIDENCE OR NONCULTIVATION

§ 237c. **Absence due to economic conditions in 1935.** Any homestead settler or entryman who, during the calendar year 1935, should find it necessary, because of economic conditions, to leave his homestead to seek employment in order to obtain the necessities of life for himself and family or to provide for the education of his children may, upon filing with the register of the district, his affidavit, supported by corroborating affidavits of two disinterested persons showing the necessity of such absence, be excused from compliance with the requirements of the homestead laws as to residence, cultivation, improvements, expenditures, or payment of purchase money, as the case may be, during all or any part of the calendar year 1935, and said entries shall not be open to contest or protest because of failure to comply with such requirements during such absence; except that the time of such absence shall not be deducted from the actual residence required by law, but a period equal to such absence shall be added to the statutory life of the entry: *Provided*, That any entryman holding an unperfected entry on ceded Indian lands may be excused from the requirements of residence upon the conditions provided herein, but shall not be entitled to extension of time for the payment of any installment of the purchase price of the land except upon proof satisfactory to the Secretary of the Interior that the entryman is acting in good faith and is financially unable to make the payments due, and upon payment of interest, in advance, at the rate of 4 per centum per annum on the principal of any unpaid purchase

price from the date when such payment or payments became due to and inclusive of the date of the expiration of the period of relief granted hereunder. (May 22, 1935, c. 185, 49 Stat. 286.)

§ 237d. **Cultivation requirement restricted.** Exclusive of Alaska, the provisions of the homestead laws requiring cultivation of the land entered shall not be applicable to existing homestead entries made prior to February 5, 1935, or thereafter if based upon valid settlement prior to said date, and no patent shall be withheld for failure to cultivate such lands: *Provided*, That this section shall not be construed to affect any provision of law requiring the cultivation of lands subject to the reclamation laws, nor to apply to entries made under sections 506 to 509 of Title 16. (Aug. 19, 1935, c. 560, 49 Stat. 659.)

### FINAL PROOF GENERALLY

§ 256a. **Extension of time for offering final proof; rules and regulations.** The Secretary of the Interior is hereby authorized to extend for not exceeding two years the period during which annual or final proof may be offered by any person who has a pending homestead or desert-land entry upon public lands of the United States on which on May 13, 1932, or on any date on or prior to December 31, 1935, under existing law, \* \* \* (As amended July 26, 1935, c. 419, 49 Stat. 504.)

Act July 26, 1935, amended section by striking out "December 31, 1934" and inserting in lieu thereof "December 31, 1935."

§ 256b. **Final proof by disabled World War veterans.** Any entryman under the homestead laws of the United States who on or after April 6, 1917, and prior to November 12, 1918, enlisted or was a member of the United States Army, Navy, or Marine Corps during the war with Germany, who was honorably discharged from such service, whose entry was made prior to January 1, 1935, and who because of physical or mental disabilities has been or may hereafter become unable to perform the prescribed residential and improvement and other requirements may make proof without further residence, improvement, or cultivation, at such time and place as may be authorized and under such regulations to be issued by the Secretary of the Interior, and receive patent to the land by him so entered upon. (Aug. 27, 1935, c. 770, 49 Stat. 909.)

### Chapter 12.—RECLAMATION AND IRRIGATION OF LANDS BY FEDERAL GOVERNMENT

#### GENERAL PROVISIONS

§ 385. **Contracts for medical attention and service for employees; pay roll deductions.**

Repeated, Act May 9, 1935, c. 101, § 1, 49 Stat. 197.

#### INSTITUTION AND CONSTRUCTION PROJECTS

§ 420. **Use of earth, timber, etc., from other public lands.**

"Mar 4, 1917" in the citation to this section should read "Mar. 4, 1907."

#### PATENTS AND FINAL WATER-RIGHT CERTIFICATES

§ 546. **Jurisdiction of district court for enforcement of preceding sections.**

The words "sections 542 to 546" in line 4 of this section should read "sections 541 to 543."





## TITLE 44.—PUBLIC PRINTING AND DOCUMENTS

### Chapter 1.—JOINT COMMITTEE ON PRINTING; GENERAL POWERS; CONTRACTS

§ 14. Purchase of other materials; purchase by departments and governmental agencies. The Joint Committee on Printing may permit the Public Printer to authorize any executive department or independent office or establishment of the Government to purchase direct for its use such printing, binding, and blank-book work, otherwise authorized by law, as the Government Printing Office is not able or suitably equipped to execute or as may be more economically or in the better interest of the Government executed elsewhere; and such Joint Committee also may authorize the Public Printer to procure services, materials, and supplies for use of the Government Printing Office without regard to the provisions of section 5 of Title 41 whenever the aggregate amount involved is less than \$50. (As amended July 8, 1935, c. 374, § 1, 49 Stat. 475.)

### Chapter 4.—PRINTING AND BINDING GENERALLY

§ 111b. Same; printing in veterans hospitals.

Repeated, Act Feb. 2, 1935, c. 3, § 1, 49 Stat. 18

### Chapter 7.—EXECUTIVE AND DEPARTMENTAL PRINTING IN GENERAL

§ 215a. Publications for National Archives. There shall be printed and delivered by the Public Printer to The National Archives for official use which shall be chargeable to Congress two copies each of the following publications:

House documents and public reports, bound; Senate documents and public reports, bound; Senate and House journals, bound; United States Code and Supplements, bound; Statutes at Large, bound; Official Register of the United States, bound; Decisions of the Supreme Court of the United States, bound; and all other documents bearing a congressional number, and all documents not bearing a congressional number printed upon order of any committee in either House of Congress, or by order of any department, bureau, independent office or establishment, commission, or officer of the Government except confidential matter, blank forms, and circular letters not of a public character; and two copies each of all public bills and resolutions in Congress in each parliamentary stage.

The Superintendent of Documents shall furnish without cost copies of such publications as may be available for free distribution. (Jan. 12, 1895, c. 23 § —, added June 17, 1935, c. 267, 49 Stat. 386.)

Act June 17, 1935, c. 267, added the above new section to Act Jan. 12, 1895, c. 23, without designating it by number.

### Chapter 8.—PARTICULAR REPORTS AND DOCUMENTS

§ 280. Official Register.

Preparation and publication of Official Register by Civil Service Commission, see section 652a of Title 5.

§ 280a. Distribution of Official Register. Of the Official Register there shall be printed, bound, and delivered to the Superintendent of Documents and charged to the Congressional allotment for printing and binding a sufficient number of copies for distribution as follows: To the President of the United States, four copies, one copy of which shall be for the library of the Executive Office; to the Vice President of the United States, two copies; to each Senator, Represent-

ative, Delegate, and Resident Commissioner in Congress, three copies; to the Secretary and the Sergeant at Arms of the Senate and to the Clerk, the Sergeant at Arms, and the Doorkeeper of the House of Representatives, each one copy; to the library of the Senate and the House, each, not to exceed fifteen copies; to the library of the Supreme Court, two copies; to the Library of Congress, for international exchange and for official use in Washington, District of Columbia, not to exceed one hundred and fifty copies; to the municipal library of the District of Columbia, two copies; and to the Commissioners of the District of Columbia, ten copies. The "usual number" shall not be printed.

The head of each executive department, independent office, or establishment of the Government, not mentioned above, desiring copies of the Official Register shall issue, on or before May 1 of each year, a requisition upon the Public Printer for the number of copies of the Official Register necessary to meet its official requirements, the cost of such supply to be charged to the appropriations available for printing and binding for such executive department, independent office, or establishment. (Aug. 28, 1935, c. 795, §§ 3, 4, 49 Stat. 957.)

### Chapter 8A.—FEDERAL REGISTER

Sec.

301. Custody and printing of Federal documents; "Division" created in Archives Establishment; Director, appointment and compensation.
302. Filing documents with "Division"; notation of time; public inspection, transmission for printing.
303. "Federal Register"; printing; contents; distribution; price.
304. "Document", "Federal Agency", "Agency", and "person" defined.
305. Documents to be published in Federal Register; comments and news items extended.
306. "Administrative Committee"; establishment and composition; powers and duties.
307. Filing document as constructive notice, publication in Register as presumption of validity; judicial notice; citation.
308. Publication in Register as notice of hearing.
309. Cost of publication; appropriations authorized; franking privilege.
310. Effective date of section 302; time for publication of Register.
311. Report by government agencies of documents previously issued, publication in supplement to Register.
312. International agreements excluded from provisions of chapter.
313. Repeal of conflicting laws.
314. Citation of chapter.

§ 301. Custody and printing of Federal documents; "Division" created in Archives Establishment; Director, appointment and compensation. The Archivist of the United States, acting through a division established by him in the National Archives Establishment, hereinafter referred to as the "Division", is charged with the custody and, together with the Public Printer, with the prompt and uniform printing and distribution of the documents required or authorized to be published under section 305 of this title. There shall be at the head of the Division a director, appointed by the President, who shall act under the general direction of the Archivist of the United States in carrying out the provisions of this chapter and the regulations prescribed hereunder, who shall receive a salary, to be fixed by the President, not to exceed \$5,000 a year. (July 26, 1935, c. 417, § 1, 49 Stat. 500.)

§ 302. Filing documents with "Division"; notation of time; public inspection; transmission for printing. The original and two duplicate originals or certified copies of any document required or authorized to be published under section 305 of this chapter shall be filed with the Division, which shall be open for that

purpose during all hours of the working days when the Archives Building shall be open for official business. The Director of the Division shall cause to be noted on the original and duplicate originals or certified copies of each document the day and hour of filing thereof: *Provided*, That when the original is issued, prescribed, or promulgated outside of the District of Columbia and certified copies are filed before the filing of the original, the notation shall be of the day and hour of filing of the certified copies. Upon such filing, at least one copy shall be immediately available for public inspection in the office of the Director of the Division. The original shall be retained in the archives of the National Archives Establishment and shall be available for inspection under regulations to be prescribed by the Archivist. The Division shall transmit immediately to the Government Printing Office for printing, as provided in this chapter, one duplicate original or certified copy of each document required or authorized to be published under section 305 of this chapter. Every Federal agency shall cause to be transmitted for filing as herein required the original and the duplicate originals or certified copies of all such documents issued, prescribed, or promulgated by the agency. (July 26, 1935, c. 417, § 2, 49 Stat. 500.)

§ 303. "Federal Register"; printing; contents; distribution; price. All documents required or authorized to be published under section 305 of this chapter shall be printed and distributed forthwith by the Government Printing Office in a serial publication designated the "Federal Register." It shall be the duty of the Public Printer to make available the facilities of the Government Printing Office for the prompt printing and distribution of the Federal Register in the manner and at the times required in accordance with the provisions of this chapter and the regulations prescribed hereunder. The contents of the daily issues shall be indexed and shall comprise all documents, required or authorized to be published, filed with the Division up to such time of the day immediately preceding the day of distribution as shall be fixed by regulations hereunder. There shall be printed with each document a copy of the notation, required to be made under section 302 of this chapter, of the day and hour when, upon filing with the Division, such document was made available for public inspection. Distribution shall be made by delivery or by deposit at a post office at such time in the morning of the day of distribution as shall be fixed by such regulations prescribed hereunder. The prices to be charged for the Federal Register may be fixed by the administrative committee established by section 306 of this chapter without reference to the restrictions placed upon and fixed for the sale of Government publications by sections 72 and 72a of this title. (July 26, 1935, c. 417, § 3, 49 Stat. 500.)

§ 304. "Document", "Federal Agency", "Agency", and "person" defined. As used in this chapter, unless the context otherwise requires, the term "document" means any Presidential proclamation or Executive order and any order, regulation, rule, certificate, code of fair competition, license, notice, or similar instrument issued, prescribed, or promulgated by a Federal agency; the terms "Federal agency" or "agency" mean the President of the United States, or any executive department, independent board, establishment, bureau, agency, institution, commission, or separate office of the administrative branch of the Government of the United States but not the legislative or judicial branches of the Government; and the term "person" means any individual, partnership, association, or corporation. (July 26, 1935, c. 417, § 4, 49 Stat. 501.)

§ 305. Documents to be published in Federal Register; comments and news items excluded. (a) There shall be published in the Federal Register (1) all Presidential proclamations and Executive orders, except such as have no general applicability and legal effect or are effective only against Federal agencies or persons in their capacity as officers, agents, or em-

ployees thereof; (2) such documents or classes of documents as the President shall determine from time to time have general applicability and legal effect; and (3) such documents or classes of documents as may be required so to be published by Act of the Congress: *Provided*, That for the purposes of this chapter every document or order which shall prescribe a penalty shall be deemed to have general applicability and legal effect.

(b) In addition to the foregoing there shall also be published in the Federal Register such other documents or classes of documents as may be authorized to be published pursuant hereto by regulations prescribed hereunder with the approval of the President, but in no case shall comments or news items of any character whatsoever be authorized to be published in the Federal Register. (July 26, 1935, c. 417, § 5, 49 Stat. 501.)

§ 306. "Administrative Committee"; establishment and composition; powers and duties. There is established a permanent Administrative Committee of three members consisting of the Archivist or Acting Archivist, who shall be chairman, an officer of the Department of Justice designated by the Attorney General, and the Public Printer or Acting Public Printer. The Director of the Division shall act as secretary of the committee. The committee shall prescribe, with the approval of the President, regulations for carrying out the provisions of this chapter. Such regulations shall provide, among other things: (a) The manner of certification of copies required to be certified under section 302 of this chapter, which certification may be permitted to be based upon confirmed communications from outside of the District of Columbia; (b) the documents which shall be authorized pursuant to section 305(b) of this chapter to be published in the Federal Register; (c) the manner and form in which the Federal Register shall be printed, reprinted, compiled, indexed, bound, and distributed; (d) the number of copies of the Federal Register which shall be printed, reprinted, and compiled, the number which shall be distributed without charge to Members of Congress, officers and employees of the United States, or any Federal agency for their official use, and the number which shall be available for distribution to the public; and (e) the prices to be charged for individual copies of, and subscriptions to, the Federal Register and reprints and bound volumes thereof. (July 26, 1935, c. 417, § 6, 49 Stat. 501.)

§ 307. Filing document as constructive notice; publication in Register as presumption of validity; judicial notice; citation. No document required under section 305 (a) of this chapter to be published in the Federal Register shall be valid as against any person who has not had actual knowledge thereof until the duplicate originals or certified copies of the document shall have been filed with the Division and a copy made available for public inspection as provided in section 302 of this chapter; and, unless otherwise specifically provided by statute, such filing of any document, required or authorized to be published under section 305 of this chapter, shall, except in cases where notice by publication is insufficient in law, be sufficient to give notice of the contents of such document to any person subject thereto or affected thereby. The publication in the Federal Register of any document shall create a rebuttable presumption (a) that it was duly issued, prescribed, or promulgated; (b) that it was duly filed with the Division and made available for public inspection at the day and hour stated in the printed notation; (c) that the copy contained in the Federal Register is a true copy of the original; and, (d) that all requirements of this chapter and the regulations prescribed hereunder relative to such document have been complied with. The contents of the Federal Register shall be judicially noticed and, without prejudice to any other mode of citation, may be cited by volume and page number. (July 26, 1935, c. 417, § 7, 49 Stat. 502.)

§ 308. Publication in Register as notice of hearing. Whenever notice of hearing or of opportunity to be

heard is required or authorized to be given by or under an Act of the Congress, or may otherwise properly be given, the notice shall be deemed to have been duly given to all persons residing within the continental United States (not including Alaska), except in cases where notice by publication is insufficient in law, if said notice shall be published in the Federal Register at such time that the period between the publication and the date fixed in such notice for the hearing or for the termination of the opportunity to be heard shall be (a) not less than the time specifically prescribed for the publication of the notice by the appropriate Act of the Congress; or (b) not less than fifteen days when no time for publication is specifically prescribed by the Act, without prejudice, however, to the effectiveness of any notice of less than fifteen days where such shorter period is reasonable. (July 26, 1935, c. 417, § 8, 49 Stat. 502.)

**§ 309. Cost of publication; appropriations authorized; franking privilege.** Every payment made for the Federal Register shall be covered into the Treasury as a miscellaneous receipt. The cost of printing, reprinting, wrapping, binding, and distributing the Federal Register and any other expenses incurred by the Government Printing Office in carrying out the duties placed upon it by this chapter shall be borne by the appropriations to the Government Printing Office and such appropriations are hereby made available, and are authorized to be increased by such additional sums as are necessary for such purposes, such increases to be based upon estimates submitted by the Public Printer. The purposes for which appropriations are available and are authorized to be made under section 240 of Title 40 are enlarged to cover the additional duties placed upon the National Archives Establishment by the provisions of this chapter. Copies of the Federal Register mailed by the Government shall be entitled to the free use of the United States mails in the same manner as the official mail of the executive departments of the Government. The cost of mailing the Federal Register to officers and employees of Federal agencies in foreign countries shall be borne by the respective agencies. (July 26, 1935, c. 417, § 9, 49 Stat. 502.)

**§ 310. Effective date of section 302; time for publication of Register.** The provisions of section 302 of this chapter shall become effective sixty days after July 26, 1935, and the publication of the Federal

Register shall begin within three business days thereafter *Provided*, That the appropriations involved have been increased as required by section 309 of this chapter. The limitations upon the effectiveness of documents required, under section 305 (a) of this chapter, to be published in the Federal Register shall not be operative as to any document issued, prescribed, or promulgated prior to the date when such document is first required by this chapter or subsequent Act of the Congress or by Executive order to be published in the Federal Register. (July 26, 1935, c. 417, § 10, 49 Stat. 503.)

**§ 311. Report by government agencies of documents previously issued; publication in supplement to Register.** Within six months after July 26, 1935, each agency shall prepare and file with the committee a complete compilation of all documents which have been issued or promulgated prior to the date documents are required or authorized by this chapter to be published in the Federal Register and which are still in force and effect and relied upon by the agency as authority for, or invoked or used by it in the discharge of, any of its functions or activities. The committee shall within sixty days thereafter report with respect thereto to the President, who shall determine which of such documents have general applicability and legal effect, and shall authorize the publication thereof in a special or supplemental edition or issue of the Federal Register. Such special or supplemental editions or issues shall be distributed in the same manner as regular editions or issues, and shall be included in the bound volumes of the Federal Register as supplements thereto. (July 26, 1935, c. 417, § 11, 49 Stat. 503.)

**§ 312. International agreements excluded from provisions of chapter.** Nothing in this chapter shall be construed to apply to treaties, conventions, protocols, and other international agreements, or proclamations thereof by the President. (July 26, 1935, c. 417, § 12, 49 Stat. 503.)

**§ 313. Repeal of conflicting laws.** All Acts or parts of Acts in conflict with this chapter are hereby repealed insofar as they conflict herewith (July 26, 1935, c. 417, § 13, 49 Stat. 503.)

**§ 314. Citation of chapter.** This chapter may be cited as the "Federal Register Act." (July 26, 1935, c. 417, § 14, 49 Stat. 503.)



## TITLE 45.—RAILROADS

### Chapter 9.—RETIREMENT OF RAILROAD EMPLOYEES

§ 215. Definitions. For the purposes of this chapter—

(a) The term "carrier" means any express company, sleeping-car company, or carrier by railroad, subject to Chapter 1 of Title 49, and any company which may be directly or indirectly owned or controlled thereby or under common control therewith, and which operates any equipment or facilities or performs any service (other than trucking service) in connection with the transportation of passengers or property by railroad, or the receipt, delivery, elevation, transfer in transit, refrigeration or icing, storage, or handling of property transported by railroad, and any receiver, trustee, or other individual or body, judicial or otherwise, when in the possession of and operating the business of any such "carrier": *Provided, however*, That the term "carrier" shall not include any street, interurban, or suburban electric railway, unless such railway is operating as a part of a general steam-railroad system of transportation, but shall not exclude any part of the general steam-railroad system of transportation now or hereafter operated by any other motive power. The Interstate Commerce Commission is hereby authorized and directed upon request of the Board or upon complaint of any party interested to determine after hearing whether any line operated by electric power falls within the terms of this proviso.

(b) The term "employee" means any person (1) who shall be at the enactment hereof or shall have been at any time after the enactment hereof in the service of a carrier, or who shall be at the enactment hereof or shall have been at any time after the enactment hereof in the employment relation to a carrier, and (2) each officer or other official representative of an "employee organization", herein called "representative" who before or after the enactment hereof has performed service for a carrier, who at the enactment hereof or at any time after the enactment is or shall be duly designated and authorized to represent employees in accordance with Chapter 8 of this title and who, during or immediately following employment by a carrier, is, shall be, or shall have been engaged in such representative service in behalf of such employees.

(c) A person shall be deemed to be in the service of a carrier whenever he may be subject to its continuing authority to supervise and direct the manner of rendition of his service, for which service he receives compensation.

(d) A person is in the employment relation to a carrier when furloughed or on leave of absence, and subject to call for service and ready and willing to serve, all in accordance with the established rules and practices usually in effect on railroads.

(e) The term "service period" means the total service of a person for one or more carriers whether or not continuously performed either before or after the effective date, and includes as one month every calendar month during which such person has rendered service to a carrier for compensation and includes as one year every twelve such months. An ultimate fraction of six months or more shall be computed as one year.

(f) The term "annuity" means a fixed sum payable at the beginning of each month during retirement, ceasing at death except as otherwise provided in section 219 of this chapter hereof or at resumption of service for which an employee receives compensation

(g) The term "compensation" means any form of money remuneration for service, received by an employee from a carrier, including salaries and commissions, but shall not include free transportation nor any payment received on account of sickness, disability, pensions, or other form of relief.

(h) The term "retirement" means the status of cessation of compensated service with the right to receive an annuity.

(i) The term "age" means age at the latest attained birthday.

(j) The term "Board" means the Railroad Retirement Board.

(k) The term "effective date" means the 1st day of March 1936

(l) The term "enactment" means the date on which this chapter shall become a law. (Aug. 29, 1935, c. 812, § 1, 49 Stat. 967.)

§ 216. Retirement. Upon the attainment of sixty-five years of age and continuance in service by the employee (but not before March 1, 1936), the annuity of such employee shall be reduced one-fifteenth for every year of such continued service beyond the age of sixty-five years: except that such reduction shall not apply during any period, beginning at the age of sixty-five and not extending beyond the age of seventy, while the employee is continued in employment under an agreement in writing between the carrier and employee filed with the Board, which agreement may provide for extension of employment for one year and thereafter in like manner for successive periods of one year each. Such reduction of annuity shall not apply to an employee who occupies an official position in the service of a carrier or to employees' representatives. (Aug. 29, 1935, c. 812, § 2, 49 Stat. 968.)

§ 217. Annuities to employees. The following-described employees, after retirement whether or not then in the service of a carrier, shall be paid annuities:

(a) A person (without regard to the period of service and whether rendered before or after the enactment hereof), who either at the enactment hereof or thereafter shall be sixty-five years of age or over.

(b) A person who either at the enactment hereof or who thereafter shall be fifty years of age or over and who shall have completed a service period of thirty years. An annuity paid under this subdivision shall be reduced by one-fifteenth of such annuity for each year such employee may be less than sixty-five years of age at the time of the first annuity payment.

(c) A person who either before or after August 29, 1935 shall have completed a service period of thirty years and who shall be after the enactment hereof retired by the carrier on account of mental or physical disability. An annuity paid under this subdivision shall not be subject to the deduction specified in subdivision (b) of this section.

The annuities hereinbefore mentioned shall be paid out of any money in the Treasury which may be appropriated for that purpose. An annuity shall begin as of a date to be specified in a written application to be signed by the employee entitled thereto, and approved by the Board, which date shall not be more than sixty days before the filing of the application, nor before the date on which the first annuity shall have become due and payable. An annuity shall not be due and payable until ninety days after the effective date hereof. The annuity shall be payable on the 1st day of the month during the lifetime of the annuitant. Such annuity shall be based upon the service period of the employee and shall be the sum of the amounts determined by multiplying the total

number of years of service not exceeding thirty years by the following percentages of the monthly compensation: 2 per centum of the first \$50; 1½ per centum of the next \$100; and 1 per centum of the compensation in excess of \$150. The "monthly compensation" shall be the average of the monthly compensation paid to the employee by the carrier, except that where applicable for service before March 1, 1936 the monthly compensation shall be the average of the monthly compensation for all pay-roll periods for which the employee shall have received compensation from any carrier out of eight consecutive calendar years of such services ended December 31, 1931. No part of any monthly compensation in excess of \$300 shall be recognized in determining any annuity. Any employee who shall be entitled to an annuity with a commuted value determined by the Board of less than \$300 shall be paid such value in a lump sum. (Aug. 29, 1935, c. 812, § 3, 49 Stat. 969.)

**§ 218. Annuities to representatives.** The annuity of a representative shall be determined according to such rules and regulations as the Board shall deem just and reasonable and, as near as may be, shall be the same annuity as if the representative were still in the employ of his last former carrier. (Aug. 29, 1935, c. 812, § 4, 49 Stat. 969.)

**§ 219. Payments upon death.** If a person receiving or entitled to receive an annuity shall die, the Board, for one year after the first day of the month in which the death may have occurred, shall pay, as herein provided, an annuity equal to one-half of the annuity which such person so dying may have received or may have been entitled to receive, to the widow or widower of the deceased, or if there be no widow or widower, to the dependent next of kin of the deceased. Any employee may elect, on making application for an annuity, to have the present value of the annuity apply to the payment of a reduced annuity to the employee during life and an annuity during the life of a surviving spouse. The present values and amounts of the annuity payments shall be determined on the basis of the combined annuity tables with interest at 3 per centum per annum. (Aug. 29, 1935, c. 812, § 5, 49 Stat. 970.)

**§ 220. Railroad Retirement Board—(a) Establishment; appointment; compensation.** There is hereby established as an independent agency in the executive branch of the Government a Railroad Retirement Board, to be composed of three members appointed by the President, by and with the advice and consent of the Senate. Each member shall hold office for a term of five years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of the term and the terms of office of the members first taking office after the date of enactment of this chapter shall expire, as designated by the President, one at the end of two years, one at the end of three years, and one at the end of four years, after the date of enactment of this chapter. One member shall be appointed from recommendations made by representatives of the employees and one member shall be appointed from recommendations made by representatives of the carriers, in both cases as the President shall direct, so as to provide representation on the Board satisfactory to the largest number, respectively, of employees and carriers concerned. One member, who shall be the chairman of the Board, shall be appointed initially, for a term of two years without recommendation by either carriers or employees and shall not be in the employment of or be peculiarly or otherwise interested in any carrier or organization of employees. Vacancies in the Board shall not impair the powers nor affect the duties of the Board nor of the remaining members of the Board of whom a majority of those in office shall constitute a quorum for the transaction of business. Each of said members shall receive a salary of \$10,000 per year, together with necessary traveling expenses and subsistence expenses, or per diem allowance in lieu thereof, while away from the principal office of the Board on duties required by this chapter.

**(b) Duties.** The Board shall have and exercise all the duties and powers necessary to administer this chapter. The Board shall take such steps as may be necessary to enforce this chapter and make and certify awards and payments.

The Board shall from time to time certify to the Secretary of the Treasury the name and address of each person entitled to receive a payment under this chapter, the amount of such payment, and the time at which it should be made, and the Secretary of the Treasury through the Division of Disbursement of the Treasury Department, and prior to audit or settlement by the General Accounting Office, shall make payment in accordance with the certification by the Board.

The Board shall establish and promulgate rules and regulations and provide for the adjustment of all controversial matters, with power as a Board or through any member or subordinate designated thereof, to require and compel the attendance of witnesses, administer oaths, take testimony, and make all necessary investigations in any matter involving annuities or other payments, and shall maintain such offices, provide such equipment, furnishings, supplies, services, and facilities, and employ such persons and provide for their compensation and expenses, as may be necessary to the proper discharge of its functions. All rules, regulations, or decisions of the Board shall require the approval of at least two members and shall be entered upon the records of the Board which shall be a public record. The Board shall gather, keep, compile, and publish in convenient form such records and data as may be necessary, and at intervals of not more than two years shall cause to be made actuarial surveys and analyses, to determine from time to time the payments to be required to provide for all annuities, other disbursements, and expenses, and to assure proper administration and the adequacy and permanency of the retirement system hereby established. The Board shall have power to require all carriers and employees and any officer, board, commission, or other agency of the United States to furnish such information and records as shall be necessary for the administration of this chapter. The Board shall make an annual report to the President of the United States to be submitted to Congress. Witnesses summoned before the Board shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. (Aug. 29, 1935, c. 812, § 6, 49 Stat. 970.)

**§ 221. Special report; existing individual carrier pension plans.** Not later than four years from March 1, 1936, the Board, in a special report to the President of the United States to be submitted to Congress, shall make specific recommendations for such changes in the retirement system hereby created as shall assure the adequacy of said retirement system on the basis of its experience and all information and experience then available. For this purpose the Board shall from time to time make such investigations and actuarial studies as shall provide the fullest information practicable for such report and recommendations. The Board shall in a like special report to be made at the earliest practicable time, make specific recommendations with regard to the desirability and practicability of substituting the provisions for annuities and other benefits to employees under this chapter for any obligation for prior service or for any existing provisions for the voluntary payment of pensions to employees subject to this chapter by a carrier or any employees subject to this chapter, so as to relieve such carrier from its obligations for age retirement benefits under its existing pension systems and transfer such obligations to the retirement system herein established.

It is recognized that existing individual carrier pension plans are wholly at the option of the carriers unless in any case express provision is made otherwise, and no restriction is imposed under this chapter upon such plans; nor is it expected that carriers will modify existing pension plans on account of this chapter beyond a reduction of current pension

payments under such existing plans in amounts equal to the annuity payments currently received by the employee under this chapter. (Aug. 29, 1935, c. 812, § 7, 49 Stat. 971.)

**§ 222. Investigation commission.** (a) That a commission be appointed which shall be composed of three Members of the Senate designated by the President of the Senate; three Members of the House of Representatives designated by the Speaker of the House of Representatives; and three members who shall be designated by the President of the United States. The President shall designate one member to be chairman and another to be vice chairman of the Commission. The Commission is hereby authorized and directed to make, and report through the President to the Congress of the United States not later than January 1, 1936, the results of, a thorough investigation of all pertinent facts relating to a retirement annuity system applicable by law to carriers by railroad engaged in interstate commerce and particularly any and all questions for the investigation of which provision is made under section 221 of this chapter. The Commission is also authorized to hold hearings respecting desirable provisions of a sound retirement and annuity system. In the making of such investigation the Commission may consider the experience of other industries and of governments, as well as of the railroad industry, and may avail itself of the assistance of all agencies of the Federal Government. Until January 1, 1936, the duties and authority of the Board under the preceding section are limited to cooperation with and action under the direction of the Commission. With its report setting forth the results of its investigation, the Commission shall include such recommendations for legislation, if any, as it may deem necessary to give effect to its conclusions.

(b) The Commission, in the performance of its duties, is authorized to sit and act at such times and places either in the District of Columbia or elsewhere during the sessions, recesses, and adjourned periods of the Seventy-fourth Congress, to require by subpoena or otherwise the attendance of such witnesses and the production and impounding of such books, papers, records, files, and documents, to have access to such books, papers, records, files, and documents of any corporation or person, to administer such oaths and to take such testimony and to make such expenditures, as it may deem advisable. The several district courts of the United States and the Supreme Court of the District of Columbia shall have jurisdiction upon application by the Commission through its attorneys to compel obedience to any order or subpoena of the Commission issued pursuant to this section. The orders, writs, and processes of the Supreme Court of the District of Columbia in such matters may run and be served anywhere in the United States.

(c) The Commission shall maintain such offices, provide such equipment, furnishings, supplies, services, and facilities, and to employ, without regard to the provisions of the Civil Service Act such experts and clerical, stenographic, legal, and other assistance as may be necessary for the proper discharge of its duties, and without respect to the provisions of sections 661 to 674 of Title 5, as amended, fix the compensation of any person employed. The President shall fix the compensation to be paid the three members of the Commission to be appointed by the President. All expenses of the Commission for all time in which the Commission shall be actually engaged in this investigation shall be paid out of any funds in the Treasury of the United States, not otherwise appropriated, on a certificate of the chairman of the Commission, and the sum necessary for carrying out the provisions of this resolution is hereby authorized to be appropriated: *Provided*, That the total expense authorized for the purposes of the Commission shall not exceed the sum of \$60,000 which shall include the compensation herein authorized. (Aug. 29, 1935, c. 812, § 8, 49 Stat. 972.)

**§ 223. Court jurisdiction.** The several District Courts of the United States and the Supreme Court of the District of Columbia, respectively, shall have jurisdiction to entertain an application and to grant appropriate relief in the following cases which may arise under the provisions of this chapter:

(a) An application by an employee or other person aggrieved in or to the district court of any district wherein the Board may have established an office, to compel the Board to set aside an action or decision claimed to be in violation of a legally enforceable right of the applicant, or to take action, or to make a decision necessary for the enforcement of a legal right of the applicant.

(b) The jurisdiction herein specifically conferred upon the said Federal courts shall not be held exclusive of any jurisdiction otherwise possessed by said courts to entertain actions at law or suits in equity in aid of the enforcement of rights or obligations arising under the provisions of this chapter.

(c) The Railroad Retirement Board, as hereinbefore established, shall be and constitute a body corporate and be capable of suing and being sued as such. (Aug. 29, 1935, c. 812, § 9, 49 Stat. 973.)

**§ 224. Assignability; exemption from levy.** No annuity payment shall be assignable or be subject to any tax or to garnishment, attachment, or other legal process under any circumstances whatsoever, nor shall the payment thereof be anticipated. (Aug. 29, 1935, c. 812, § 10, 49 Stat. 973.)

**§ 225. Penalties.** Any officer or agent of a carrier, as the word "carrier" is hereinbefore defined, or any employee as such word is hereinbefore defined, or any person whether or not of the character hereinbefore defined, who shall willfully fail or refuse to make any report or furnish any information required by the Board in the administration of this chapter, or who shall knowingly make any false or fraudulent statement or report in response to any report or statement required to be made for the purpose of this chapter, or who shall knowingly make or aid in making any false or fraudulent statement or claim for the purpose of receiving any award or payment under this chapter, shall be punished by a fine of not less than \$100 nor more than \$10,000 or by imprisonment not exceeding one year. (Aug. 29, 1935, c. 812, § 11, 49 Stat. 973.)

**§ 226. Separability clause.** If any provision of this chapter, or the application thereof to any person or circumstances, is held invalid, the remainder of the chapter or application of such provision to other persons or circumstances shall not be affected thereby. (Aug. 29, 1935, c. 812, § 12, 49 Stat. 973.)

**§ 227. Appropriation.** The appropriation of such money from time to time out of the Treasury of the United States as may be necessary to carry this chapter into effect, is hereby authorized. (Aug. 29, 1935, c. 812, § 13, 49 Stat. 973.)

**§ 228. Short title.** This chapter may be cited as the "Railroad Retirement Act of 1935". (Aug. 29, 1935, c. 812, § 14, 49 Stat. 973.)

## Chapter 10.—TAX ON CARRIERS AND EMPLOYEES

Sec.	
241.	Definitions.
242.	Income tax on employees.
243.	Deduction of tax from wages.
244.	Excise tax on carriers.
245.	Adjustment of tax.
246.	Refunds and deficiencies.
247.	Income tax on employees' representative.
248.	Collection and payment of taxes.
249.	Court jurisdiction.
250.	Penalties.
251.	Social security act.
252.	Termination of taxes.
253.	Separability.

**§ 241. Definitions.** As used in this chapter—

(a) The term "carrier" means any express company, sleeping-car company, or carrier by railroad,



subject to Chapter 1 of Title 49, and any company which may be directly or indirectly owned or controlled thereby or under common control therewith, and which operates any equipment or facilities or performs any service (other than trucking service) in connection with the transportation of passengers or property by railroad, or the receipt, delivery, elevation, transfer in transit, refrigeration or icing, storage, or handling of property transported by railroad, and any receiver, trustee, or other individual or body, judicial or otherwise, when in the possession of and operating the business of any such "carrier". *Provided, however,* That the term "carrier" shall not include any street, interurban, or suburban electric railway, unless such railway is operating as a part of a general steam-railroad system of transportation, but shall not exclude any part of the general steam-railroad system of transportation now or hereafter operated by any other motive power. The Interstate Commerce Commission is hereby authorized and directed upon request of the Commissioner of Internal Revenue or upon complaint of any party interested to determine after hearing whether any line operated by electric power falls within the terms of this proviso.

(b) The term "employee" means (1) each person who at or after the enactment hereof is in the service of a carrier, and (2) each officer or other official representative of an "employee organization", herein called "representative", who before or after the effective date has performed service for a carrier, who is duly designated and authorized to represent employees under and in accordance with sections 151 to 163 of this title, and who, during, or immediately following employment by a carrier, was or is engaged in such representative service in behalf of such employees.

(c) A person shall be deemed to be in the service of a carrier whenever he may be subject to its continuing authority to supervise and direct the manner of rendition of his service, for which service he receives compensation.

(d) The term "compensation" means any form of money remuneration for active service, received by an employee from a carrier, including salaries and commissions, but shall not include free transportation nor any payment received on account of sickness, disability, or other form of personal relief.

(e) The term "effective date" means March 1, 1936.

(f) The term "enactment" means the date on which this chapter may be approved by the President or be finally passed. (Aug. 29, 1935, 3 p. m., c. 813, § 1, 49 Stat. 974.)

**§ 242. Income tax on employees.** In addition to other taxes, there shall be levied, collected, and paid upon the income of every employee,  $3\frac{1}{2}$  per centum of the compensation of such employee (except a representative) not in excess of \$300 per month, received by him after the effective date. (Aug. 29, 1935, 3 p. m., c. 813, § 2, 49 Stat. 975.)

**§ 243. Deduction of tax from wages.** (a) The tax imposed by section 242 of this chapter shall be collected by the employer of the taxpayer, by deducting the amount of the tax from the compensation of the employee as and when paid. Every employer required so to deduct the tax is hereby made liable for the payment of such tax and is hereby indemnified against the claims and demands of any person for the amount of any such payment made by such employer.

(b) If more or less than the correct amount of tax imposed by section 242 is paid with respect to any compensation payment, then, under regulations made under this chapter by the Commissioner of Internal Revenue, proper adjustments, with respect both to the tax and the amount to be deducted, shall be made, without interest, in connection with subsequent wage payments to the same employee by the same employer. (Aug. 29, 1935, 3 p. m., c. 813, § 3, 49 Stat. 975.)

**§ 244. Excise tax on carriers.** In addition to other taxes, every carrier shall pay an excise tax of  $3\frac{1}{2}$  per centum of the compensation not in excess of \$300

per month paid by it to its employees after March 1, 1936. (Aug. 29, 1935, 3 p. m., c. 813, § 4, 49 Stat. 975.)

**§ 245. Adjustment of tax.** If more or less than the correct amount of the tax imposed by section 244 is paid, with respect to any compensation payment, then, under regulations made by the Commissioner of Internal Revenue, proper adjustments with respect to the tax shall be made, without interest, in connection with subsequent excise-tax payments made by the same employer. (Aug. 29, 1935, 3 p. m., c. 813, § 5, 49 Stat. 975.)

**§ 246. Refunds and deficiencies.** If more or less than the correct amount of the tax imposed by sections 242 or 244 of this chapter is paid or deducted with respect to any compensation payment and the overpayment or underpayment of the tax cannot be adjusted under sections 243 or 245, the amount of the overpayment shall be refunded, or the amount of the underpayment shall be collected in such manner and at such times (subject to the statute of limitations properly applicable thereto) as may be prescribed by regulations under this chapter as made by the Commissioner of Internal Revenue. (Aug. 29, 1935, 3 p. m., c. 813, § 6, 49 Stat. 975.)

**§ 247. Income tax on employees' representative.** In addition to other taxes, there shall be levied, collected, and paid upon the compensation of each employees' representative received by such representative an income tax of 7 per centum annually upon that portion of the compensation of such employees' representative not in excess of \$300 per month. The compensation of a representative for the purpose of ascertaining the tax thereon shall be determined according to such rules and regulations as the Commissioner of Internal Revenue shall deem just and reasonable and as near as may be shall be the same compensation as if the representative were still in the employ of the last former carrier. (Aug. 29, 1935, c. 813, 3 p. m., § 7, 49 Stat. 975.)

**§ 248. Collection and payment of taxes.** (a) The taxes imposed by this chapter shall be collected by the Commissioner of Internal Revenue and shall be paid into the Treasury of the United States as internal-revenue receipts. If the taxes are not paid when due, there shall be added as part of the tax (except in the case of adjustments made in accord with the provisions of this chapter) interest at the rate of 6 per centum per annum, or for any part of a month, from the date the tax became due until paid.

(b) Such taxes shall be collected and paid quarterly in such manner and under such conditions not inconsistent with this chapter as may be prescribed by the Commissioner of Internal Revenue.

(c) All provisions of law, including penalties, applicable with respect to any tax imposed by sections 1120, 1124 or sections 900, 908 of Title 26, and the provisions of section 1551 of Title 26, insofar as applicable and not inconsistent with the provisions of this chapter, shall be applicable with respect to the taxes imposed by this chapter.

(d) In the payment of any tax under this chapter a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to 1 cent. (Aug. 29, 1935, 3 p. m., c. 813, § 8, 49 Stat. 976.)

**§ 249. Court jurisdiction.** The several Districts [sic] Courts of the United States and the Supreme Court of the District of Columbia, respectively, shall have jurisdiction to entertain an application and to grant appropriate relief in the following cases which may arise under the provisions of this chapter:

(a) An application by the Commissioner of Internal Revenue to compel an employee or other person residing within the jurisdiction of said court or a carrier subject to service of process within said jurisdiction, to comply with any obligations imposed on said employee, other person, or carrier under the provisions of this chapter.

(b) The jurisdiction herein specifically conferred upon the said Federal courts shall not be held exclusive of any jurisdiction otherwise possessed by said courts to entertain actions at law or suits in equity in aid of the enforcement of rights or obligations arising under the provisions of this chapter. (Aug. 29, 1935, 3 p. m., c. 813, § 9, 49 Stat. 976.)

§ 250. **Penalties.** Any person or any carrier which shall willfully fail or refuse to make any report in accordance with this chapter required by the Commissioner of Internal Revenue in the administration of this chapter, or which shall knowingly make any false or fraudulent statement or report in response to any report or statement required by this chapter shall be punished on conviction by a fine of not less than \$100 nor more than \$10,000. (Aug. 29, 1935, 3 p. m., c. 813, § 10, 49 Stat. 976.)

§ 251. **Social security act.** The term "employment", as defined in subsection (b) of section 1011 of Title 42, shall not include service performed in the employ of a carrier as defined in subdivision (a) of section 241 of this chapter. (Aug. 29, 1935, 3 p. m., c. 813, § 11, 49 Stat. 976.)

§ 252. **Termination of taxes.** The taxes imposed by this chapter shall not apply to any compensation received or paid after February 28, 1937. (Aug. 29, 1935, 3 p. m., c. 813, § 12, 49 Stat. 976.)

§ 253. **Separability.** If any provision of this chapter, or the application thereof to any person or circumstance, is held invalid, the remainder of the chapter, and the application of such provision to other persons or circumstances shall not be affected thereby. (Aug. 29, 1935, 3 p. m., c. 813, § 13, 49 Stat. 977.)



## TITLE 46.—SHIPPING

### Chapter 2.—REGISTRY AND RECORDING

#### GENERAL PROVISIONS AS TO REGISTRY AND DOCUMENTS

##### § 60. Penalty for fraudulent registry.

Act Aug. 5, 1935, c. 438, Title III, § 310, 49 Stat. 528, amended section by striking out the words "not entitled to the benefit thereof."

#### Chapter 2A.—LOAD LINES FOR AMERICAN VESSELS

##### LOAD LINES FOR VESSELS ENGAGED IN COASTWISE TRADE

§ 88. Establishment; vessels affected. Load lines are hereby established for merchant vessels of one hundred and fifty gross tons or over, loading at or proceeding to sea from any port or place within the United States or its possessions for a coastwise voyage by sea. By "coastwise voyage by sea" is meant a voyage on which a vessel in the usual course of her employment proceeds from one port or place in the United States or her possessions to another port or place in the United States or her possessions and passes outside the line dividing inland waters from the high seas, as defined in section 151 of Title 33. (Aug. 27, 1935, c. 747, § 1, 49 Stat. 888.)

§ 88a. Determination of lines by Secretary of Commerce; application of subchapter to Great Lakes. The Secretary of Commerce is hereby authorized and directed in respect of the vessels defined above to establish by regulations from time to time the load water lines and marks thereof indicating the maximum depth to which such vessels may safely be loaded and in establishing such load lines due consideration shall be given to, and differentials made for, the various types and character of vessels and the trades in which they are engaged: *Provided*, That the load-line provisions of sections 88 to 88i of this title shall apply to the Great Lakes and that no load line shall be established or marked on any vessel which load line gives a lesser freeboard and less buoyancy than the load line established by the International Treaty on Load Lines of 1930, and that the regulations established under this proviso shall have the force of law: *Provided further*, That in applying the load lines to vessels on the Great Lakes the Secretary of Commerce is vested with discretion to vary the load-line marks from those established by said Treaty when in his opinion the changes made by him will not be above the actual line of safety. (Aug. 27, 1935, c. 747, § 2, 49 Stat. 888.)

§ 88b. Marking lines on vessels; approval of marks; certificate. It shall be the duty of the owner and of the master of every vessel subject to sections 88 to 88i of this title and to the regulations established thereunder to cause the load line or lines so established to be permanently and conspicuously marked upon the vessel in such manner as the Secretary of Commerce shall direct, and to keep the same so marked. The Secretary of Commerce shall appoint the American Bureau of Shipping, or such other American corporation or association for the survey or registry of shipping as may be selected by him, to determine whether the position and manner of marking on such vessels the load line or lines so established are in accordance with the provisions of sections 88 to 88i of this title and of the regulations established thereunder: *Provided, however*, That, at the request of the shipowner, the Secretary of Commerce may appoint,

for the purpose aforesaid, any other corporation or association for the survey or registry of shipping which the Secretary of Commerce may approve; or the Secretary of Commerce may appoint for said purpose any officer of the Government, who shall perform such services as may be directed by the Secretary of Commerce. The Secretary of Commerce may, in his discretion, revoke any appointment made pursuant to this section. Such corporation, association or officer shall, upon approving the position and manner of marking of such load line or lines, issue a certificate, in a form to be prescribed by the Secretary of Commerce, that the same are in accordance with the provisions of sections 88 to 88i of this title and of the regulations established thereunder, and shall deliver a copy thereof to the master of the vessel. It shall be unlawful for any vessel subject to sections 88 to 88i of this title and to said regulations to depart from any port or place designated in section 88 without bearing such mark or marks, approved and certified by such corporation, association, or officer, and without having on board a copy of said certificate. (Aug. 27, 1935, c. 747, § 3, 49 Stat. 888.)

§ 88c. Vessels so loaded as not to submerge lines or marks. It shall be unlawful for any vessel subject to sections 88 to 88i of this title and to the regulations established thereunder to be so loaded as to submerge the load line or lines marked pursuant to section 88b and to the regulations established thereunder applicable to her voyage; or to be so loaded as to submerge under like conditions the point where such load line or lines ought to be marked pursuant to the provisions of sections 88 to 88i of this title and of the regulations established thereunder; or to be so loaded as in any manner to violate the said regulations. (Aug. 27, 1935, c. 747, § 4, 49 Stat. 889.)

§ 88d. Foreign vessels; application of subchapter. Whenever the Secretary of Commerce shall certify that the laws and regulations in force in any foreign country relating to load lines are equally effective with the regulations established under sections 88 to 88i of this title, the Secretary of Commerce may direct, on proof that a vessel of that country has complied with such foreign laws and regulations, that such vessel and her master and owner shall be exempted from compliance with the provisions of sections 88 to 88i of this title, except as hereinafter provided: *Provided*, That this section shall not apply to the vessels of any foreign country which does not similarly recognize the load lines established under sections 88 to 88i of this title and the regulations made thereunder. (Aug. 27, 1935, c. 747, § 5, 49 Stat. 889.)

§ 88e. Recordation by masters of positions of load-line and actual drafts. It shall be the duty of the master of every vessel subject to sections 88 to 88i of this title and to the regulations established thereunder and of every foreign vessel exempted pursuant to section 88d, before departing from her loading port or place to provide a ship's record or log book and enter therein a statement of the position of the load line marked applicable to the voyage in question and the actual drafts forward and aft at the time of departing as nearly as the said drafts can be ascertained. (Aug. 27, 1935, c. 747, § 6, 49 Stat. 889.)

§ 88f. Detention of vessels loaded in violation of subchapter. If any collector of customs has reason to believe on complaint or otherwise that a vessel subject to the provisions of sections 88 to 88i of this title is about to proceed on a voyage from a port in the United States or its possessions within his district

without conforming to the provisions of section 88b hereof, or when loaded in violation of section 88c hereof, or that any vessel exempted pursuant to section 88d hereof is about to proceed on a voyage from such port when loaded in violation of the laws and regulations of her country with respect to load line, he may serve on the master or officer in charge of such vessel a written order detaining the vessel for the purpose of being surveyed to determine whether or not the provisions of sections 88 to 88i of this title are complied with. Where the detention is on the ground that the vessel does not conform to the provisions of section 88b of this title, the collector shall cause an examination of the vessel to be made, and if from such examination it appears that the vessel is not marked with the load line established in conformity with the provisions of sections 88 to 88i of this title, the collector shall so notify the master or officer in charge of such vessel and shall detain her until a load line shall have been duly established in accordance with section 88b of this title, provided that in cases of exceptional hardship, subject to regulations issued by the Secretary of Commerce, the collector may cause a proper load line to be provisionally established by one of the agencies or persons designated under section 88b of this title, which provisional load line shall constitute a compliance with the provisions of sections 88 to 88i of this title only until completion of the particular voyage in which the vessel is at the time engaged. After such establishment or provisional establishment of a load line the collector shall appoint three disinterested surveyors to examine the loading of the vessel and to report to him whether such vessel is so loaded as to submerge said provisional load line and if from such report it appears that the vessel is so loaded, the collector may by written order served on the master or officer in charge of said vessel detain the vessel until she has been reloaded in whole or in part so as not to submerge said provisional load line or lines. Where the detention is on the ground of a supposed violation of section 88c or section 88d of this title, the collector shall appoint three disinterested surveyors to examine the vessel and her loading and to report to him and if from such report it appears that the vessel is loaded in violation of the provisions of section 88c or section 88d of this title, the collector shall so notify in writing the master or other officer in charge of such vessel and detain the vessel until she has been reloaded in whole or in part so as to conform to the provisions of section 88c or section 88d of this title. If a vessel is ordered detained by a collector acting under the provisions of this section, the master may within five days appeal to the Secretary of Commerce, who, if he so desires, may order a further survey and may affirm, set aside, or modify the order of the collector. Clearance shall be refused to any vessel which shall have been ordered detained. (Aug. 27, 1935, c. 747, § 7, 49 Stat. 889.)

**§ 88g. Penalties for violations of subchapter; seizure of vessels.** (a) If the owner or master of any vessel subject to this chapter and to the regulations established thereunder shall permit her to depart from any port or place designated in section 88 of this title without having complied with the provisions of section 88b, he shall for each offense be liable to the United States in a penalty of \$500. If the owner or master of any vessel exempted pursuant to section 88d shall permit her to depart from any port or place designated in section 88 of this title without having the loadline or lines required by the laws and regulations of the country to which she belongs marked upon her as required by said law and regulations, he shall for each offense be liable to the United States in a penalty of \$500. The Secretary of Commerce may, in his discretion, remit or mitigate any penalty imposed under this paragraph, or discontinue prosecution therefor on such terms as he may deem proper.

(b) If the master of any vessel subject to sections 88 to 88i of this title, or of any foreign vessel exempted pursuant to section 88d, shall fail, before departing from any port or place designated in section 88, to

enter in and make a part of the ship's record or log book the statement required by section 88e, he shall for each offense be liable to the United States in a penalty of \$100. The Secretary of Commerce may, in his discretion, remit or mitigate any penalty imposed under this paragraph.

(c) If any person shall knowingly permit or cause or attempt to cause any vessel subject to sections 88 to 88i of this title to depart or arrive, or if, being the owner, manager, agent, or master of such vessel, he shall fail to take reasonable care to prevent her from departing from or arriving at any port or place designated in section 88 of this title when loaded in violation of section 88c, or if any person shall knowingly permit or cause or attempt to cause a foreign vessel exempted pursuant to section 88d to depart or arrive, or if, being the owner, manager, agent, or master of such vessel he shall fail to take reasonable care to prevent her from departing from or arriving at any port or place designated in section 88 of this title when loaded more deeply than permitted by the laws and regulations of the country to which she belongs, he shall, in respect of each offense, be liable to the United States, in a penalty of \$500 unless the vessel's departure or arrival was, under the circumstances, reasonable and justifiable. The Secretary of Commerce may, in his discretion, remit or mitigate any penalty imposed under this paragraph.

(d) If the master of any vessel or any other person shall knowingly permit or cause or attempt to cause any vessel to depart from any port or place in the United States or its possessions in violation of any order of detention made pursuant to section 88f, he shall, in respect of each offense, be guilty of a misdemeanor and shall be punished by a fine not to exceed \$500 or by imprisonment not to exceed three months, or both such fine and imprisonment, in the discretion of the court.

(e) If any person shall conceal, remove, alter, deface, or obliterate or shall suffer any person under his control to conceal, remove, alter, deface, or obliterate any mark or marks placed on a vessel pursuant to sections 88 to 88i of this title or to the regulations established thereunder, except in the event of lawful change of said marks, or to prevent capture by an enemy, he shall in respect of each offense be guilty of a misdemeanor and shall be punished by a fine not to exceed \$1,000, or by imprisonment not to exceed one year, or both such fine and imprisonment, in the discretion of the court.

(f) Whenever the owner, manager, agent, or master of a vessel shall become subject to a fine or penalty by way of money payment pursuant to the provisions of sections 88 to 88i of this title, the vessel shall also be liable therefor and may be seized and proceeded against in the district court of the United States in any district in which such vessel may be found. (Aug. 27, 1935, c. 747, § 8, 49 Stat. 890.)

**§ 88h. Effective date of subchapter.** The provisions of sections 88 to 88i of this title shall become effective as to vessels of four thousand gross tons and upwards, not later than three months, and as to all other vessels subject hereto, not later than twelve months from and after August 27, 1935. (Aug. 27, 1935, c. 747, § 9, 49 Stat. 891.)

**§ 88i. Short title of subchapter.** This subchapter may be cited as the "Coastwise Load Line Act, 1935". (Aug. 27, 1935, c. 747, § 9, 49 Stat. 891.)

### Chapter 3.—CLEARANCE AND ENTRY

#### § 91. Granting clearances.

\* \* \* \* \*

If any vessel bound to a foreign port (other than a licensed yacht not engaging in any trade nor in any way violating the revenue laws of the United States) departs from any port or place in the United States without a clearance, or if the master delivers a false manifest, or does not answer truly the questions demanded of him, or, having received a clearance

adds to the cargo of such vessel without having mentioned in the report outwards the intention to do so, or if the departure of the vessel is delayed beyond the second day after obtaining clearance without reporting the delay to the collector, the master or other person having the charge or command of such vessel shall be liable to a penalty of not more than \$1,000 nor less than \$500, or if the cargo consists in any part of narcotic drugs, or any spirits, wines, or other alcoholic liquors (sea stores excepted), a penalty of not more than \$5,000 nor less than \$1,000, for each offense, and the vessel shall be detained in any port of the United States until the said penalty is paid or secured (As amended Aug. 5, 1935, c. 438, Title II, § 209, 49 Stat. 526.)

Act Aug. 5, 1935, amended section by striking out the second sentence and inserting in lieu thereof the above sentence

**§ 106. Entry of yachts on return from foreign countries; manifest of dutiable articles.**

Act Aug. 5, 1935, c. 438, Title III, § 311, 49 Stat. 528, amended section by inserting after the words "except those of fifteen gross tons or under" the words "exempted by law,".

**Chapter 7A.—TRANSPORTATION OF EXPLOSIVES AND OTHER DANGEROUS CARGO**

Sec.

178. Transporting inflammables, explosives and other dangerous cargo; inspection, regulations for construction and equipment of vessels; to what vessels applicable.

179 Same; penalty; liability of vessel.

**§ 178. Transporting inflammables, explosives and other dangerous cargo; inspection; regulations for construction and equipment of vessels; to what vessels applicable.** No vessel, regardless of size or rig, excepting public vessels of the United States, shall transport on the navigable waters of the United States, from point to point in the continental United States, any inflammable, explosive, or like dangerous cargo or anchor in such waters or go into drydock for repairs while having on board such dangerous cargo, until such vessel has been inspected by the board of local inspectors to determine that such cargo may be carried on such vessel with safety, and a permit issued to her for the presence on board of such cargo, which permit shall be framed under glass and posted in a conspicuous part of the vessel.

The Secretary of Commerce is authorized and directed to promulgate rules and regulations concerning construction, the appliances, and apparatus for stowage, of vessels used in the transportation of inflammable, explosive, or like dangerous cargo on said vessels in order to preserve life and property while in operation or at anchor. The local board of inspectors shall not issue a permit to any vessel until it finds that said vessel is in substantial compliance with the rules and regulations promulgated by the Secretary of Commerce: *Provided*, That this section and section 179 of this title shall not apply to a vessel covered by an unexpired certificate of inspection duly issued in accordance with law by the local inspectors of the Bureau of Marine Inspection and Navigation or, if a foreign vessel, by an unexpired certificate of inspection issued under the authority of its own government and recognized under law or treaty by the Government of the United States. (Aug. 26, 1935, c. 697, § 1, 49 Stat. 868.)

Section 3 of Act August 26, 1935, c. 697, 49 Stat. 869, cited to the text, provided that the Act "shall become effective sixty days after its enactment"

**§ 179. Same; penalty; liability of vessel.** A penalty of not to exceed \$500 may be imposed for each violation of any of the provisions of section 178 of this title or of any of the rules and regulations promulgated under the authority of such section. The vessel shall be liable for the said penalty and may be seized and proceeded against, by way of libel, in the District Court of the United States for any district within which such vessel may be found. (Aug. 26, 1935, c. 697, § 2, 49 Stat. 869.)

Section 3 of Act August 26, 1935, c. 697, 49 Stat. 869, cited to the text, provided that the Act "shall become effective sixty days after its enactment"

**Chapter 8.—LIMITATION OF VESSEL OWNER'S LIABILITY**

**§ 183. Liability of owner not to exceed interest; amount of liability for loss of life or personal injury.**

\*<sup>1</sup>, and her freight then pending: *Provided*, That the total liability of the owner or owners of any sea-going sailing, steam, or motor vessel, whether American or foreign, other than tugs, barges, fishing vessels and their tenders, for the entire loss of life or personal injuries caused without the fault or privity of such owner or owners to any person, shall be in an amount not less than an amount equal to \$60 for each ton of the tonnage of such vessel or vessels, or the amount or value of the interest of such owner in such vessel and her freight then pending, if the latter be the greater amount. The tonnage of a steam or motor vessel shall be her gross tonnage without deduction on account of engine room, and the tonnage of a sailing vessel shall be her registered tonnage, provided that there shall not be included in such tonnage any space occupied by seamen or apprentices and appropriated to their use. The owner of every sea-going vessel or share therein shall be liable in respect of every such loss of life or personal injury arising on distinct occasions to the same extent as if no other loss or injury had arisen. (As amended Aug. 29, 1935, c. 804, § 1, 49 Stat. 960.)

**§ 183a. Privity or knowledge of master, superintendent or managing agent imputed to owner.** In respect of loss of life or bodily injury, the actual privity or knowledge of the master of a sea-going vessel (other than tugs, barges, fishing vessels and their tenders), or of the superintendent or managing agent of the owner thereof, at or prior to the commencement of each voyage, shall be deemed conclusively the privity or knowledge of the owner of such vessel. (Aug. 29, 1935, c. 804, § 2, 49 Stat. 960.)

**§ 183b. Stipulations limiting time for filing claims and commencing suit.** (a) It shall be unlawful for the manager, agent, master, or owner of any sea-going vessel (other than tugs, barges, fishing vessels and their tenders) transporting passengers or merchandise or property from or between ports of the United States and foreign ports to provide by rule, contract, regulation, or otherwise a shorter period for giving notice of, or filing claims for loss of life or bodily injury, than six months, and for the institution of suits on such claims, than one year, such period for institution of suits to be computed from the day when the death or injury occurred.

(b) Failure to give such notice, where lawfully prescribed in such contract, shall not bar any such claim—

(1) If the owner or master of the vessel or his agent had knowledge of the injury, damage, or loss and the court determines that the owner has not been prejudiced by the failure to give such notice; nor

(2) If the court excuses such failure on the ground that for some satisfactory reason such notice could not be given; nor

(3) Unless objection to such failure is raised by the owner.

(c) If a person who is entitled to recover on any such claim is mentally incompetent or a minor, or if the action is one for wrongful death, any lawful limitation of time prescribed in such contract shall not be applicable so long as no legal representative has been appointed for such incompetent, minor, or decedent's estate, but shall be applicable from the date of the appointment of such legal representative: *Provided, however*, That such appointment be made within three years after the date of such death or injury. (R. S. § 4283a as added Aug. 29, 1935, c. 804, § 3, 49 Stat. 960.)

**Chapter 12.—REGULATION OF VESSELS IN DOMESTIC COMMERCE**

**§ 277. Inspection of enrollment or license.** Any officer concerned in the collection of the revenue may at all times inspect the register or enrollment or li-

cense of any vessel or any document in lieu thereof; and if the master of any such vessel shall not exhibit the same, when required by such officer, he shall be liable to a penalty of \$100, unless the failure to do so is willful in which case he shall be liable to a penalty of \$1,000 and to a fine of not more than \$1,000 or imprisonment for not more than one year, or both. (As amended Aug. 5, 1935, c. 438, Title III, § 312, 49 Stat. 528.)

#### § 288. Numbering undocumented vessels.

When a number is awarded to a vessel under the provisions of this section, a certificate of such award shall be issued by the collector, the said certificate to be at all times kept on board of such vessel and to constitute a document in lieu of enrollment or license (As amended Aug. 5, 1935, c. 438, Title II, § 210, 49 Stat. 526.)

Act Aug. 5, 1935, amended section by adding at the end thereof the above new sentence.

§ 319. Fine for trading without license. \* \* \* at every port of arrival without such enrollment or license, and if she have on board any merchandise of foreign growth or manufacture (sea stores excepted), or any taxable domestic spirits, wines, or other alcoholic liquors, on which the duties or taxes have not been paid or secured to be paid, she shall, together with her tackle, apparel and furniture, and the lading found on board, be forfeited. Marks, labels, brands, or stamps, indicative of foreign origin, upon or accompanying merchandise or containers of merchandise found on board such vessel, shall be prima facie evidence of the foreign origin of such merchandise. But if the license shall have expired while the vessel was at sea, and there shall have been no opportunity to renew such license, then said fine or forfeiture shall not be incurred. (As amended Aug. 5, 1935, c. 438, Title III, § 314, 49 Stat. 529.)

Act Aug. 5, 1935, amended section by striking out the period at the end of the first sentence and inserting a comma in lieu thereof, and by striking out the second sentence and substituting in lieu thereof the above text.

§ 325. Penalty for violation of license. Whenever any licensed vessel is transferred, in whole or in part, to any person who is not at the time of such transfer a citizen of and resident within the United States, or is employed in any other trade than that for which she is licensed, or is employed in any trade whereby the revenue of the United States is defrauded, or is found with a forged or altered license, or one granted for any other vessel, or with merchandise of foreign growth or manufacture (sea stores excepted), or any taxable domestic spirits, wines, or other alcoholic liquors, on which the duties or taxes have not been paid or secured to be paid, such vessel with her tackle, apparel and furniture, and the cargo, found on board her, shall be forfeited. But vessels which may be licensed for the mackerel fishery shall not incur such forfeiture by engaging in catching cod or fish of any other description whatever. For the purposes of this section, marks, labels, brands, or stamps, indicative of foreign origin, upon or accompanying merchandise or containers of merchandise found upon any vessel, shall be prima facie evidence of the foreign origin of such merchandise. (As amended Aug. 5, 1935, c. 438, Title III, § 313, 49 Stat. 528.)

#### § 330. Fees on frontiers.

The words "post entry" in the last paragraph of this section in the Code read "port entry" in R. S. § 4382, cited to the text "port" was changed to "post" on incorporation into the Code in view of an opinion of the Commissioner of Navigation.

### Chapter 24.—MERCHANT MARINE ACT, 1920

§ 883. Transportation of merchandise between points in United States in other than domestic built and documented vessels. No merchandise shall be transported by water, or by land and water, on penalty of forfeiture thereof, between points in the United States, including Districts, Territories, and possessions thereof embraced within the coastwise laws, either

directly or via a foreign port, or for any part of the transportation, in any other vessel than a vessel built in and documented under the laws of the United States and owned by persons who are citizens of the United States, or vessels to which the privilege of engaging in the coastwise trade is extended by section 13 or 808 of this title: *Provided*, That no vessel having at any time acquired the lawful right to engage in the coastwise trade, either by virtue of having been built in, or documented under the laws of the United States, and later sold foreign in whole or in part, or placed under foreign registry, shall hereafter acquire the right to engage in the coastwise trade: *Provided further*, That this section shall not apply to merchandise transported between points within the continental United States, excluding Alaska, over through routes heretofore or hereafter recognized by the Interstate Commerce Commission for which routes rate tariffs have been or shall hereafter be filed with said Commission when such routes are in part over Canadian rail lines and their own or other connecting water facilities: *Provided further*, That this section shall not become effective upon the Yukon River until the Alaska Railroad shall be completed and the Shipping Board shall find that proper facilities will be furnished for transportation by persons citizens of the United States for properly handling the traffic: *Provided further*, That this section shall not apply to the transportation of merchandise loaded on railroad cars or to motor vehicles with or without trailers, and with their passengers or contents when accompanied by the operator thereof, when such railroad cars or motor vehicles are transported in any railroad car ferry operated between fixed termini on the Great Lakes as a part of a rail route, if such car ferry is owned by a common carrier by water and operated as part of a rail route with the approval of the Interstate Commerce Commission, and if the stock of such common carrier by water, or its predecessor, was owned or controlled by a common carrier by rail prior to June 5, 1920, and if the stock of the common carrier owning such car ferry is, with the approval of the Interstate Commerce Commission, now owned or controlled by any common carrier by rail and if such car ferry is built in and documented under the laws of the United States. (As amended Apr. 11, 1935, c. 58, 49 Stat. 154; July 2, 1935, c. 355, § 1, 49 Stat. 442.)

### Chapter 25.—SHIP MORTGAGE ACT

#### RECORDING OF SALES, CONVEYANCES, AND MORTGAGES OF VESSELS OF THE UNITED STATES

§ 922. Preferred mortgages. A valid mortgage which at the time it is made, includes the whole of any vessel of the United States (other than a towboat, barge, scow, lighter, car float, canal boat, or tank vessel, of less than two hundred gross tons), shall, in addition, have, in respect to such vessel and as of the date of the compliance with all the provisions of this subdivision, the preferred status given by the provisions of section 953 of this title, if—

(1) The mortgage is endorsed upon the vessel's documents in accordance with the provisions of this section;

(2) The mortgage is recorded as provided in section 921 of this title, together with the time and date when the mortgage is so endorsed;

(3) An affidavit is filed with the record of such mortgage to the effect that the mortgage is made in good faith and without any design to hinder, delay, or defraud any existing or future creditor of the mortgagor or any lienor of the mortgaged vessel;

(4) The mortgage does not stipulate that the mortgagee waives the preferred status thereof; and

(5) The mortgagee is a citizen of the United States and for the purposes of this section the Reconstruction Finance Corporation shall, in addition to those designated in sections 888 and 802 of this title, be deemed a citizen of the United States. (As amended June 27, 1935, c. 319, 49 Stat. 424.)

\* \* \* \* \*



## TITLE 48.—TERRITORIES AND INSULAR POSSESSIONS

### Chapter 2.—ALASKA

#### THE JUDICIARY

§ 101a. District Court as court of United States. The District Court of the Territory of Alaska shall be deemed a court of the United States, and the commissioners appointed by the judges of the said District Court of the Territory of Alaska under the provisions of section 104 of this title, shall be deemed commissioners of a United States court, within the intent and meaning of this section. (May 24, 1935, c. 142, 49 Stat. 289.)

#### § 104. Clerks and commissioners.

Commissioners deemed commissioners of U. S. Court, see section 101a of this Title.

### Chapter 3.—HAWAII

#### THE LEGISLATURE AND LEGISLATIVE POWER

§ 562a. Same; issuance of revenue bonds. The Legislature of the Territory of Hawaii may cause to be issued on behalf of the Territory and may authorize any political or municipal corporation or subdivision of the Territory to issue on its own behalf bonds and other obligations payable solely from the revenues derived from a public improvement or public undertaking (which revenues may include transfers by agreement or otherwise from the regular funds of the issuer in respect of the use by it of the facilities afforded by such improvement or undertaking). The issuance of such revenue bonds shall not constitute the incurrence of an indebtedness within the meaning of section 562 of this title, and shall not require the approval of the President of the United States. (July 15, 1935, c. 378, § 1, 49 Stat. 479.)

§ 562b. Same; authorizing issuance of flood control bonds by city and county of Honolulu. The Legislature of the Territory of Hawaii may authorize the city and county of Honolulu to issue its general obligation bonds for the purpose of financing projects for the prevention and control of floods, in a total amount of not to exceed \$1,200,000, notwithstanding the existing limitation of indebtedness contained in section 562 of this title. (July 15, 1935, c. 378, § 2, 49 Stat. 480.)

§ 562c. Same; ratification of issuance of revenue bonds. All Acts of the Legislature of Hawaii prior to July 15, 1935, authorizing the issuance of revenue bonds on behalf of the Territory or by any political or municipal corporation or any subdivision thereof, or authorizing the city and county of Honolulu to issue bonds for the control of any protection against floods, are hereby approved, ratified, and confirmed. (July 15, 1935, c. 378, § 3, 49 Stat. 480.)

§ 562d. Same; issuance of revenue bonds; ratification of prior issues. The Legislature of the Territory of Hawaii may cause to be issued on behalf of the Territory and may authorize any political or municipal corporation or subdivision of the Territory (including the board of water supply of the city and county of Honolulu, and the board of harbor commissioners) to issue of its own behalf bonds and other obligations payable solely from the revenues derived from a public improvement or public undertaking (which revenues may include transfers by agreement or otherwise from the regular funds of the issuer in respect of the use by it of the facilities afforded by such improvement or undertaking). The issuance of such revenue bonds shall not constitute the incurrence of an indebtedness within the meaning

of section 562 of this title, and shall not require the approval of the President of the United States.

All Acts of the Legislature of Hawaii heretofore authorizing the issuance of revenue bonds on behalf of the Territory or by any political or municipal corporation or subdivision thereof are hereby confirmed and ratified. (Aug. 3, 1935, c. 436, § 1, 49 Stat. 516.)

§ 562e. Same; issuance of public improvement bonds authorized. That the Territory of Hawaii, any provision of the Hawaiian Organic Act or of any Act of this Congress to the contrary notwithstanding, is authorized and empowered to issue bonds in the sum of not to exceed \$4,803,000 of the character and in the manner provided in that certain act of the legislature of said Territory, enacted at its regular session of 1935, entitled "An Act to provide for public improvements and for the securing of Federal funds for expenditure in connection with funds hereby appropriated for such improvements."

Such bonds may be either term or serial bonds, maturing, in the case of the term bonds, not later than thirty years from the date of issue thereof, and, in the case of the serial bonds, payable in substantially equal annual installments, the first installment to mature not later than five years and the last installment to mature not later than thirty years, from the date of such issue. And said act of said legislature is hereby ratified and confirmed, subject to the provisions of this section and section 562d of this chapter: *Provided, however*, That nothing herein contained shall be deemed to prohibit the said act of said Territory by the legislature thereof from time to time to provide for changes in the improvements authorized by said act or for the disposition of unexpended moneys appropriated by said act, and that said bonds may be issued without the approval of the President of the United States. (Aug. 3, 1935, c. 436, § 2, 49 Stat. 517.)

#### HAWAIIAN HOME LANDS

§ 693. Hawaiian Homes Commission; members; appointment; vacancies; chairman; executive officer and secretary; salaries; terms of office; removal.

(a) There is hereby established a Commission to be known as the "Hawaiian Homes Commission", and to be composed of five members. The members shall be appointed by the Governor and may be removed in the manner provided by section 546 of this title. All of the members shall have been residents of the Territory of Hawaii at least three years prior to their appointment and at least three of the members shall be descendants of not less than one-fourth part of the blood of the races inhabiting the Hawaiian Islands previous to 1778.

(b) Any vacancy in the office of an appointed member shall be filled in the same manner and under the limitations of this subchapter.

(c) One of the members shall be designated by the Governor as chairman. An executive officer and such clerical assistants as may be necessary shall be appointed by the Commission to serve at its pleasure. The executive officer shall receive an annual salary not to exceed \$6,000 and shall reside habitually at the major Hawaiian Homes Settlement. Clerical assistants shall be paid in accordance with territorial practice for such services. The members of the Commission shall serve without pay, but shall receive actual expenses incurred by them in the discharge of their duties as such members. Of the originally appointed members one shall be appointed for a term of one year, one for a term of two years, one for a term of

three years, one for a term of four years, one for a term of five years. Their successors shall hold office for terms of five years except that any member appointed to fill a vacancy shall be appointed only for the unexpired term of the member whom he succeeds. A member may also be removed by the Governor for cause after due notice and public hearing. (As amended July 26, 1935, c. 420, § 1, 49 Stat. 504.)

**§ 697. Certain public lands designated "available lands."**

So much of this section as designates the following land as "available lands" was repealed by Act Aug. 29, 1935, c. 810, § 1, 49 Stat. 966, and the land restored to its previous status under the control of the Territory of Hawaii: "On the Island of Molokai. Those portions of Hoolehua, apana 2, and Palaau, apana 2, comprising the Molokai airplane landing field as set aside for public purposes by Executive Order Numbered 307 of the Governor of the Territory of Hawaii, dated December 15, 1927, consisting of two hundred four and nine-tenths acres, more or less."

**§ 715a. Sanitation and reclamation expert; appointment and compensation.** The Secretary of the Interior shall designate from his Department some one experienced in sanitation, rehabilitation, and reclamation work to reside in the Territory of Hawaii and co-operate with the Commission in carrying out its duties. The salary of such official so designated by the Secretary of the Interior shall be paid by the Hawaiian Homes Commission while he is carrying on his duties in the Territory of Hawaii, which salary, however, shall not exceed the sum of \$6,000 per annum. (July 9, 1921, c. 42, § 224, as added July 26, 1935, c. 420, § 2, 49 Stat. 505.)

#### Chapter 4.—PUERTO RICO

**§ 745a. Public improvement bonds sold to United States or agency thereof excluded from public indebtedness.** Bonds or other obligations of Puerto Rico or any municipal government therein, payable solely from revenues derived from any public improvement or undertaking (which revenues may include transfers by agreement or otherwise from the regular funds of the issuer in respect of the use by it of the facilities afforded by such improvement or undertaking), and issued and sold to the United States of America or any agency or instrumentality thereof, shall not be considered public indebtedness of the issuer within the meaning of section 745 of this title. (Aug. 13, 1935, c. 516, 49 Stat. 611.)

**§ 745b. Refunding bonds excluded temporarily in computing indebtedness.** Any bonds or other obligations of Puerto Rico hereafter issued for the purpose of retiring previously outstanding bonds or obligations shall not be included in computing the public indebtedness of Puerto Rico under section 745 of this title, until six months after their issue. (Aug. 3, 1935, c. 435, 49 Stat. 516.)

#### Chapter 5.—THE PHILIPPINE ISLANDS

##### PHILIPPINE INDEPENDENCE

**§ 1236a. Same; Manila and other fiber products; period admitted to U. S. duty free.** Effective May 1, 1935, and for three years thereafter, the total amount of all yarns, twines, cords, cordage, rope, and cable, tarred or untarred, wholly or in chief value of Manila (abaca) or other hard fiber, produced or manufactured in the Philippine Islands, coming into the United States from the Philippine Islands, shall not exceed six million pounds during each successive twelve months period, which six million pounds shall enter the United States duty free.

The amount or quantity of such articles which may be so exported to the United States shall be allocated, under export permits issued by the Government of the Philippine Islands, to the producers or manufacturers thereof. This allocation shall be made by the Governor General of the Philippine Islands prior to the inauguration of the Commonwealth of the Philippines, and thereafter by the President of

said Commonwealth, unless otherwise provided by the Legislature of the Commonwealth.

Pending the final and complete withdrawal of American sovereignty over the Philippine Islands, the President of the United States may, by proclamation, at least ninety days prior to the expiration of the three year period provided herein, extend the operation of this section for an additional period of three years or more, provided such extension is accepted by the President of the Commonwealth of the Philippines.

On and after the expiration of the operation of this section the articles described herein coming into the United States from the Philippines shall be subject to the provisions of section 1236 of this chapter.

Except as provided herein, nothing in this section shall be construed to modify or repeal the provisions of any existing law.

The Secretary of the Treasury shall promulgate such rules and regulations as may be necessary to enforce the provisions hereof; and this section shall be enforced as part of the customs law. (June 14, 1935, c. 240, §§ 1-5, 49 Stat. 340, 341.)

**§ 1237a. Same; salaries of legal adviser and financial expert.** The salary of the legal adviser and the financial expert who may be appointed under section 1237 of this title shall not exceed the annual rate of \$12,000 and \$10,000 each, respectively. (Mar. 21, 1935, c. 36, § 1, 49 Stat. 59.)

##### EMIGRATION OF FILIPINOS FROM UNITED STATES

**§ 1251. Return to Philippines at expense of United States.** Any native Filipino residing in any State or the District of Columbia on July 10, 1935, who desires to return to the Philippine Islands, may apply to the Secretary of Labor, upon such form as the Secretary may prescribe, through any officer of the Immigration Service for the benefits of sections 1251 to 1257 of this title. Upon approval of such application, the Secretary of Labor shall notify such Filipino forthwith, and shall certify to the Secretary of the Navy and the Secretary of War that such Filipino is eligible to be returned to the Philippine Islands under the terms of sections 1251 to 1257 of this title. Every Filipino who is so certified shall be entitled, at the expense of the United States, to transportation and maintenance from his present residence to a port on the west coast of the United States, and from such port, to passage and maintenance to the port of Manila, Philippine Islands, on either Navy or Army transports, whenever space on such transports is available, or on any ship of United States registry operated by a commercial steamship company which has a contract with the Secretary of Labor as provided in section 1252. (July 10, 1935, c. 376, § 1, 49 Stat. 478.)

**§ 1252. Contracts for transportation authorized.** The Secretary of Labor is hereby authorized and directed to enter into contracts with any railroad or other transportation company, for the transportation from their present residences to a port on the west coast of the United States of Filipinos eligible under section 1251 of this title to receive such transportation, and with any commercial steamship company, controlled by citizens of the United States and operating ships under United States registry, for transportation and maintenance of such Filipinos from such ports to the port of Manila, Philippine Islands, at such rates as may be agreed upon between the Secretary and such steamship, railroad, or other transportation company. (July 10, 1935, c. 376, § 2, 49 Stat. 478.)

**§ 1253. Rules and regulations; cooperation with Secretaries of War and Navy.** The Secretary of Labor is authorized and directed to prescribe such rules and regulations as may be necessary to carry out sections 1251 to 1257 of this title, to enter into the necessary arrangements with the Secretary of War and the Secretary of the Navy, to fix the ports

on the west coast of the United States from which any Filipinos shall be transported and the dates upon which transportation shall be available from such ports, to provide for the identification of the Filipinos entitled to the benefits of sections 1251 to 1257 of this title, and to prevent voluntary interruption of the journey between any port on the west coast of the United States and the port of Manila, Philippine Islands. (July 10, 1935, c. 376, § 3, 49 Stat. 478.)

**§ 1254. Return to United States as quota immigrant.** No Filipino who receives the benefits of sections 1251 to 1257 of this title shall be entitled to return to the continental United States except as a quota immigrant under the provisions of section 1238 of this title, during the period such section is applicable. (July 10, 1935, c. 376, § 4, 49 Stat. 479.)

**§ 1255. Appropriation.** There is authorized to be appropriated from moneys in the Treasury not otherwise appropriated, amounts necessary to carry out the provisions of sections 1251 to 1257 of this title. All amounts so appropriated shall be administered by the Secretary of Labor, and all expenses, including those incurred by the Navy and War Departments, shall be charged thereto. (July 10, 1935, c. 376, § 5, 49 Stat. 479.)

**§ 1256. Time limit for applications.** No application for the benefits of sections 1251 to 1257 of this title shall be accepted by any officer of the Immigration

Service after December 1, 1936; and all benefits under sections 1251 to 1257 of this title shall finally terminate on December 31, 1936, unless the journey has been started on or before that date, in which case the journey to Manila shall be completed. (July 10, 1935, c. 376, § 6, 49 Stat. 479.)

**§ 1257. Deportation unauthorized; return not deemed deportation.** Nothing in sections 1251 to 1257 of this title shall be construed as authority to deport any native of the Philippine Islands, and no Filipino removed from continental United States under the provisions of sections 1251 to 1257 of this title shall hereafter be held to have been deported from the United States. (July 10, 1935, c. 376, § 7, 49 Stat. 479.)

#### Chapter 6.—CANAL ZONE

The following headings should be inserted at the end of schedule of sections for Chapter 6:

§ 1371*o*. Exemption from execution, and so forth.

§ 1371*p*. Effective date

#### GENERAL PROVISIONS

**§ 1302. Establishment of Canal Zone; acquisition of additional lands.**

The entire second sentence of this section, beginning with the words "The following tract of land \* \* \*", should be omitted.

"June 5, 1920, c. 239, § 1, 49 Stat. 948" should be omitted from the citation.



## TITLE 49.—TRANSPORTATION

### Chapter 1.—INTERSTATE COMMERCE ACT

This chapter was amended by section 1 of Act Aug. 9, 1935, c. 495, 49 Stat. 543, which provided as follows: "The Interstate Commerce Act, as amended, herein referred to as 'Part I', is hereby amended by inserting at the beginning thereof the caption 'Part I' and by substituting for the words 'this Act' wherever they occur, the words 'this part', but such part I may continue to be cited as the 'Interstate Commerce Act', and said Interstate Commerce Act is hereby further amended by adding the following part II." For Part II added by this Act, see Chapter 8, sections 301 to 327 of this title

§ 3. **Preferences; interchange of traffic; terminal facilities.**—(1) *Undue preferences or prejudices prohibited.*—It shall be unlawful for any common carrier subject to the provisions of this chapter to make, give, or cause any undue or unreasonable preference or advantage to any particular person, company, firm, corporation, association, locality, port, port district, gateway, transit point, or any particular description of traffic, in any respect whatsoever or to subject any particular person, company, firm, corporation, association, locality, port, port district, gateway, transit point, or any particular description of traffic to any undue or unreasonable prejudice or disadvantage in any respect whatsoever. (As amended Aug. 12, 1935, c. 509, 49 Stat. 607.)

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§ 11. **Interstate Commerce Commission; appointment, term, and qualifications of commissioners.**  
\* \* \* Upon the expiration of his term of office a Commissioner shall continue to serve until his successor is appointed and shall have qualified. (As amended July 16, 1935, c. 383, 49 Stat. 481.)

Act July 16, 1935, added above sentence at end of section.

§ 15. **Determination of rates, routes, etc.; routing of traffic; disclosures, etc.**

The note at the end of this section in the Code should read as follows: "The provisions of this section, insofar as they related to communication by wire or wireless, or to telegraph, telephone, or cable companies operating by wire or wireless, were repealed by the Communications Act of June 19, 1934, c. 652, § 602 (b), 48 Stat. 1102. See Chapter 5 of Title 47."

§ 18. **Employees; appointment and compensation; witness fees; expenses.**

For the fiscal year ending June 30, 1936, the salaries of the commissioners of the Interstate Commerce Commission were reduced to \$10,000 each per annum by Act Feb. 2, 1935, c. 3, § 3, 49 Stat. 19

§ 21. **Annual reports of Commission.** The Commission shall, on or before the 3d day of January of each year, make a report which shall be transmitted to Congress and copies of which shall be distributed as are the other reports transmitted to Congress.  
\* \* \* (As amended May 23, 1935, c. 136, 49 Stat. 287.)

### Chapter 2.—LEGISLATION SUPPLEMENTARY TO "INTERSTATE COMMERCE ACT"

§ 61. **Interstate transportation of convict made goods; prohibition where intended for use in violation of local law; exemption of Federal made goods for Federal use.** It shall be unlawful for any person knowingly to transport or cause to be transported in any manner or by any means whatsoever, or aid or assist in obtaining transportation for or in transporting any goods, wares, and merchandise manufactured, produced, or mined wholly or in part by convicts or prisoners (except convicts or prisoners on parole or probation), or in any penal or reformatory institution, from one State, Territory, Puerto Rico, Virgin Islands, or District of the United States, or

place noncontiguous but subject to the jurisdiction thereof, or from any foreign country, into any State, Territory, Puerto Rico, Virgin Islands, or District of the United States, or place noncontiguous but subject to the jurisdiction thereof, where said goods, wares, and merchandise are intended by any person interested therein to be received, possessed, sold, or in any manner used, either in the original package or otherwise in violation of any law of such State, Territory, Puerto Rico, Virgin Islands, or District of the United States, or place noncontiguous but subject to the jurisdiction thereof. Nothing herein shall apply to commodities manufactured in Federal penal and correctional institutions for use by the Federal Government. (July 24, 1935, c. 412, § 1, 49 Stat. 494.)

§ 62. **Same; marking packages.** All packages containing any goods, wares, and merchandise manufactured, produced, or mined wholly or in part by convicts or prisoners, except convicts or prisoners on parole or probation, or in any penal or reformatory institution, when shipped or transported in interstate or foreign commerce shall be plainly and clearly marked, so that the name and address of the shipper, the name and address of the consignee, the nature of the contents, and the name and location of the penal or reformatory institution where produced wholly or in part may be readily ascertained on an inspection of the outside of such package. (July 24, 1935, c. 412, § 2, 49 Stat. 494.)

§ 63. **Same; penalties for violation.** Any person violating any provision of sections 61 and 62 of this title shall for each offense, upon conviction thereof, be punished by a fine of not more than \$1,000, and such goods, wares, and merchandise shall be forfeited to the United States, and may be seized and condemned by like proceedings as those provided by law for the seizure and forfeiture of property imported into the United States contrary to law. (July 24, 1935, c. 412, § 3, 49 Stat. 495.)

§ 64. **Same; jurisdiction of violations.** Any violation of sections 61 and 62 of this title shall be prosecuted in any court having jurisdiction of crime within the district in which said violation was committed, or from, or into which any such goods, wares, or merchandise may have been carried or transported, or in any Territory, Puerto Rico, Virgin Islands, or the District of Columbia, contrary to the provisions of said sections. (July 24, 1935, c. 412, § 4, 49 Stat. 495.)

### Chapter 5.—INLAND WATERWAYS TRANSPORTATION

#### INLAND WATERWAYS CORPORATION

§ 153. **Operation of transportation and terminal facilities; application of other laws.**

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(e) Any person, firm, or corporation, including the Inland Waterways Corporation, engaged or about to engage in conducting a common-carrier service upon the Warrior, Mississippi, Columbia, Snake, Sacramento, San Joaquin, or Savannah Rivers, or any tributaries thereof, may apply to the Interstate Commerce Commission and obtain a certificate of public convenience \* \* \*. (As amended Aug. 29, 1935, c. 802, 49 Stat. 958.)

### Chapter 7.—CO-ORDINATION OF INTERSTATE RAILROAD TRANSPORTATION

§ 264a. **Additional assessment on carriers.** It shall be the duty of each carrier to pay into the fund pro-

vided for by section 264 of this chapter, within twenty days after June 16, 1935, \$2 for every mile of road operated by it on December 31, 1934, as reported to the Commission, and it shall be the duty of the Secretary of the Treasury to collect such assessments. (Act June 14, 1935, c. 247, § 2, 49 Stat. 376.)

§ 267a. Same; extension of duration of chapter. This chapter shall continue in full force and effect until June 17, 1936, but orders of the Coordinator or of the Commission made thereunder shall continue in effect until vacated by the Commission or set aside by other lawful authority, but notwithstanding the provisions of section 260, no such order shall operate to relieve any carrier from the effect of any State law or of any order of a State commission enacted or made after this title ceases to have effect. (June 14, 1935, c. 247, § 1, 49 Stat. 376.)

## Chapter 8.—MOTOR CARRIER ACT

Sec.	
301	Short title.
302.	Declaration of policy and delegation of jurisdiction to Interstate Commerce Commission
303.	Definitions and exceptions
304	Powers and duties of commission
305.	Administration
306.	Certificate of convenience and necessity.
307	Issuance of certificate.
308	Terms and conditions of certificate.
309.	Contract carriers by motor vehicle
310	Dual operation.
311	Motor transportation brokers.
312	Suspension, change, revocation, and transfer of certificates, permits, and licenses
313.	Consolidation, merger, acquisition, and control.
314	Issuance of securities.
315	Security for protection of public.
316.	Rates, fares, and charges
317.	Tariffs of common carriers by motor vehicle
318	Schedules of contract carriers by motor vehicles
319.	Receipts or bills of lading; application of section 20 (11).
320.	Accounts, records, and reports
321	Orders, notices, and service of process.
322	Unlawful operation
323.	Collection of rates and charges; extension of credit; liability of agent of beneficial owner
324.	Identification plates for interstate motor carriers.
325.	Investigation of motor vehicle sizes and weights and qualifications and hours of service of employees.
326	Separability clause.
327.	Effective date of chapter.

§ 301. Short title. This chapter may be cited as the 'Motor Carrier Act, 1935'. (Feb. 4, 1887, c. 104, Part II, § 201, as added Aug. 9, 1935, c. 498, § 1, 49 Stat. 543.)

§ 302. Declaration of policy and delegation of jurisdiction to Interstate Commerce Commission. (a) It is hereby declared to be the policy of Congress to regulate transportation by motor carriers in such manner as to recognize and preserve the inherent advantages of, and foster sound economic conditions in, such transportation and among such carriers in the public interest; promote adequate, economical, and efficient service by motor carriers, and reasonable charges therefor, without unjust discriminations, undue preferences or advantages, and unfair or destructive competitive practices; improve the relations between, and coordinate transportation by and regulation of, motor carriers and other carriers; develop and preserve a highway transportation system properly adapted to the needs of the commerce of the United States and of the national defense; and cooperate with the several States and the duly authorized officials thereof and with any organization of motor carriers in the administration and enforcement of this chapter.

(b) The provisions of this chapter apply to the transportation of passengers or property by motor carriers engaged in interstate or foreign commerce and to the procurement of and the provision of facilities for such transportation, and the regulation of such transportation, and of the procurement thereof, and the provision of facilities therefor, is hereby vested in the Interstate Commerce Commission.

(c) Nothing in this chapter shall be construed to affect the powers of taxation of the several States or to authorize a motor carrier to do an intrastate business on the highways of any State, or to inter-

fere with the exclusive exercise by each State of the power of regulation of intrastate commerce by motor carriers on the highways thereof (Feb. 4, 1887, c. 104, Part II, § 202, as added Aug. 9, 1935, c. 498, § 1, 49 Stat. 543.)

§ 303. Definitions and exceptions—(a) Definitions. As used in this chapter—

(1) The term "person" means any individual, firm, copartnership, corporation, company, association, or joint-stock association; and includes any trustee, receiver, assignee, or personal representative thereof.

(2) The term "board" or "State board" means the commission, board, or official (by whatever name designated in the laws of a State) which, under the laws of any State in which any part of the service in interstate or foreign commerce regulated by this part is performed, has or may hereafter have jurisdiction to grant or approve certificates of public convenience and necessity or permits to motor carriers, or otherwise to regulate the business of transportation by motor vehicles, in intrastate commerce over the highways of such State.

(3) The term "Commission" means the Interstate Commerce Commission.

(4) The term "joint board" means any special board constituted as provided in section 305 of this chapter.

(5) The term "certificate" means a certificate of public convenience and necessity issued under this part to common carriers by motor vehicle.

(6) The term "permit" means a permit issued under this chapter to contract carriers by motor vehicle.

(7) The term "license" means a license issued under this chapter to a broker.

(8) The term "State" means any of the several States and the District of Columbia.

(9) The term "express company" means any common carrier by express subject to the provisions of chapter 1 of this title.

(10) The term "interstate commerce" means commerce between any place in a State and any place in another State or between places in the same State through another State, whether such commerce moves wholly by motor vehicle or partly by motor vehicle and partly by rail, express, or water.

(11) The term "foreign commerce" means commerce between any place in the United States and any place in a foreign country, or between places in the United States through any foreign country, whether such commerce moves wholly by motor vehicle or partly by motor vehicle and partly by rail, express, or water.

(12) The term "highway" means the roads, highways, streets, and ways in any State.

(13) The term "motor vehicle" means any vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used upon the highways in the transportation of passengers or property, but does not include any vehicle, locomotive, or car operated exclusively on a rail or rails.

(14) The term "common carrier by motor vehicle" means any person who or which undertakes, whether directly or by a lease or any other arrangement, to transport passengers or property, or any class or classes of property, for the general public in interstate or foreign commerce by motor vehicle for compensation, whether over regular or irregular routes, including such motor vehicle operations of carriers by rail or water, and of express or forwarding companies, except to the extent that these operations are subject to the provisions of chapter 1 of this title.

(15) The term "contract carrier by motor vehicle" means any person, not included under paragraph (14) of this section, who or which, under special and individual contracts or agreements, and whether directly or by a lease or any other arrangement, transports passengers or property in interstate or foreign commerce by motor vehicle for compensation.

(16) The term "motor carrier" includes both a common carrier by motor vehicle and a contract carrier by motor vehicle.

(17) The term "private carrier of property by motor vehicle" means any person not included in the terms "common carrier by motor vehicle" or "contract carrier by motor vehicle", who or which transports in interstate or foreign commerce by motor vehicle property of which such person is the owner, lessee, or bailee, when such transportation is for the purpose of sale, lease, rent, or bailment, or in furtherance of any commercial enterprise.

(18) The term "broker" means any person not included in the term "motor carrier" and not a bona fide employee or agent of any such carrier, who or which, as principal or agent, sells or offers for sale any transportation subject to this chapter, or negotiates for, or holds himself or itself out by solicitation, advertisement, or otherwise as one who sells, provides, furnishes, contracts, or arranges for such transportation.

(19) The "services" and "transportation" to which this chapter applies include all vehicles operated by, for, or in the interest of any motor carrier irrespective of ownership or of contract, express or implied, together with all facilities and property operated or controlled by any such carrier or carriers, and used in the transportation of passengers or property in interstate or foreign commerce or in the performance of any service in connection therewith.

(20) The term "interstate operation" means any operation in interstate commerce.

(21) The term "foreign operation" means any operation in foreign commerce.

(b) **Vehicles excepted from operation of law.** Nothing in this chapter, except the provisions of section 304 of this chapter relative to qualifications and maximum hours of service of employees and safety of operation or standards of equipment shall be construed to include (1) motor vehicles employed solely in transporting school children and teachers to or from school; or (2) taxicabs, or other motor vehicles performing a bona fide taxicab service, having a capacity of not more than six passengers and not operated on a regular route or between fixed termini; or (3) motor vehicles owned or operated by or on behalf of hotels and used exclusively for the transportation of hotel patrons between hotels and local railroad or other common carrier stations; or (4) motor vehicles operated, under authorization, regulation, and control of the Secretary of the Interior, principally for the purpose of transporting persons in and about the national parks and national monuments; or (4a) motor vehicles controlled and operated by any farmer, and used in the transportation of his agricultural commodities and products thereof, or in the transportation of supplies to his farm; or (4b) motor vehicles controlled and operated by a co-operative association as defined in section 1141j of Title 12; or (5) trolley busses operated by electric power derived from a fixed overhead wire, furnishing local passenger transportation similar to street-railway service; or (6) motor vehicles used exclusively in carrying livestock, fish (including shell fish), or agricultural commodities (not including manufactured products thereof); or (7) motor vehicles used exclusively in the distribution of newspapers; nor, unless and to the extent that the Commission shall from time to time find that such application is necessary to carry out the policy of Congress enunciated in section 302 of this chapter, shall the provisions of this chapter, except the provisions of section 304 of this chapter relative to qualifications and maximum hours of service of employees and safety of operation or standards of equipment apply to: (8) The transportation of passengers or property in interstate or foreign commerce wholly within a municipality or between contiguous municipalities or within a zone adjacent to and commercially a part of any such municipality or municipalities, except when such transportation is under a common control, management, or arrangement for a continuous carriage or shipment to or from a point without such municipality, municipalities, or zone, and provided that the motor carrier engaged in such transportation of pas-

sengers over regular or irregular route or routes in interstate commerce is also lawfully engaged in the intrastate transportation of passengers over the entire length of such interstate route or routes in accordance with the laws of each State having jurisdiction; or (9) the casual, occasional, or reciprocal transportation of passengers or property in interstate or foreign commerce for compensation by any person not engaged in transportation by motor vehicle as a regular occupation or business. (Feb. 4, 1887, c. 104, Part II, § 203, as added Aug. 9, 1935, c. 498, § 1, 49 Stat. 541.)

**§ 304. Powers and duties of commission—(a) Powers and duties generally.** It shall be the duty of the Commission—

(1) To regulate common carriers by motor vehicle as provided in this chapter, and to that end the Commission may establish reasonable requirements with respect to continuous and adequate service, transportation of baggage and express, uniform systems of accounts, records, and reports, preservation of records, qualifications and maximum hours of service of employees, and safety of operation and equipment.

(2) To regulate contract carriers by motor vehicle as provided in this chapter, and to that end the Commission may establish reasonable requirements with respect to uniform systems of accounts, records, and reports, preservation of records, qualifications and maximum hours of service of employees, and safety of operation and equipment.

(3) To establish for private carriers of property by motor vehicle, if need therefor is found, reasonable requirements to promote safety of operation, and to that end prescribe qualifications and maximum hours of service of employees, and standards of equipment. In the event such requirements are established, the term "motor carrier" shall be construed to include private carriers of property by motor vehicle in the administration of sections 304 (d) and (e); 305: 320; 321; 322 (a), (b), (d), (f), and (g); and 324 of this chapter.

(4) To regulate brokers as provided in this chapter, and to that end the Commission may establish reasonable requirements with respect to licensing, financial responsibility, accounts, records, reports, operations, and practices of any such person or persons.

(5) For the purpose of carrying out the provisions pertaining to safety, the Commission may avail itself of the assistance of any of the several research agencies of the Federal Government having special knowledge of any such matter, to conduct such scientific and technical researches, investigations, and tests as may be necessary to promote the safety of operation and equipment of motor vehicles as provided in this chapter; the Commission may transfer to such agency or agencies such funds as may be necessary and available to make this provision effective.

(6) To administer, execute, and enforce all other provisions of this chapter, to make all necessary orders in connection therewith, and to prescribe rules, regulations, and procedure for such administration; and

(7) To inquire into the organization of motor carriers and brokers and into the management of their business, to keep itself informed as to the manner and method in which the same is conducted, and to transmit to Congress, from time to time, such recommendations as to additional legislation relating to such carriers or brokers as the Commission may deem necessary.

(b) **Application of codes of fair competition.** The provisions of any code of fair competition for any industry embracing motor carriers or for any subdivision thereof approved pursuant to chapter 15 of Title 15 or any present or future Act amendatory thereof, or supplementary thereto, or in substitution thereof, which is in conflict or inconsistent with any action under the provisions of this chapter, shall have no force or effect after this section becomes effective.

(c) **Classification of motor carriers.** The Commission may from time to time establish such just and reasonable classifications of brokers or of groups



of carriers included in the term "common carrier by motor vehicle", or "contract carrier by motor vehicle", as the special nature of the services performed by such carriers or brokers shall require; and such just and reasonable rules, regulations, and requirements, consistent with the provisions of this chapter, to be observed by the carriers or brokers so classified or grouped, as the Commission deems necessary or desirable in the public interest.

(d) **Investigation of complaints; orders.** Upon complaint in writing to the Commission by any person, State board, organization, or body politic, or upon its own initiative without complaint, the Commission may investigate whether any motor carrier or broker has failed to comply with any provision of this chapter, or with any requirement established pursuant thereto. If the Commission, after notice and hearing, finds upon any such investigation that the motor carrier or broker has failed to comply with any such provision or requirement, the Commission shall issue an appropriate order to compel the carrier or broker to comply therewith. Whenever the Commission is of opinion that any complaint does not state reasonable grounds for investigation and action on its part, it may dismiss such complaint.

(e) **Rehearings.** After a decision, order, or requirement has been made by the Commission in any proceeding under this chapter, any party thereto may make application to the Commission for reconsideration or rehearing of the same, or of any matter determined therein, and it shall be lawful for the Commission in its discretion to grant such reconsideration or a rehearing if sufficient reason therefor be made to appear. Applications for reconsideration or rehearing shall be governed by such general rules as the Commission may prescribe. No such application shall excuse any motor carrier or broker from complying with or obeying any decision, order, or requirement of the Commission, or operate in any manner to stay or postpone the enforcement thereof, without the special order of the Commission. If, after such reconsideration or rehearing, it shall appear that the original decision, order, or requirement is in any respect unjust or unwarranted, the Commission may reverse, change, or modify the same accordingly. Any decision, order, or requirement made after such reconsideration or rehearing shall be subject to the same provisions as an original decision, order, or requirement.

(f) **Application of sections 14 and 16 (13) of this title.** The provisions of sections 14 and 16 (13) of this title, relating to reports, decisions, schedules, contracts, and other public records, shall apply in the administration of this chapter. (Feb. 4, 1887, c. 104, Part II, § 204, as added Aug. 9, 1935, c. 498, § 1, 49 Stat. 546.)

§ 305. **Administration—(a) Hearings by Commission or examiner.** Excepting a matter which is referred to a joint board as hereinafter provided, any matter arising in the administration of this chapter requiring a hearing shall be heard and decided by the Commission, or shall, by order of the Commission, be referred to a member or examiner of the Commission for hearing and the recommendation of an appropriate order thereon. With respect to such matter the member or examiner shall have all the rights, duties, powers, and jurisdiction conferred by this chapter upon the Commission, except that the order recommended by such member or examiner shall be subject to the following provisions of this paragraph. Any order recommended by the member or examiner with respect to such matter shall be in writing and be accompanied by the reasons therefor, and shall be filed with the Commission. Copies of such recommended order shall be served upon the persons specified in paragraph (f), who may file exceptions thereto, but if no exceptions are filed within 20 days after service upon such persons, or within such further period as the Commission may authorize, such recommended order shall become the order of the Commission and become effective, unless

within such period the order is stayed or postponed by the Commission. Where exceptions are filed as herein provided it shall be the duty of the Commission to consider the same and, if sufficient reason appears therefor, the Commission shall grant such review or make such orders or hold or authorize such further hearings or proceedings in the premises as may be necessary or proper to carry out the purposes of this chapter, or the Commission may, on its own motion, review any such matter and take action thereon as if exceptions thereto had been filed. The Commission, after review upon the same record or as supplemented by a further hearing, shall decide the matter and make appropriate order thereon.

(b) **Joint boards; composition; references of matters to boards.** The Commission shall, when operations of motor carriers or brokers conducted or proposed to be conducted involve not more than three States, and the Commission may, in its discretion, when operations of motor carriers or brokers conducted or proposed to be conducted involve more than three States, refer to a joint board for appropriate proceedings thereon, any of the following matters arising in the administration of this chapter with respect to such operations: Applications for certificates, permits, or licenses; the suspension, change, or revocation of such certificates, permits, or licenses; applications for the approval and authorization of consolidations, mergers, and acquisitions of control or operating contracts; complaints as to violations by motor carriers or brokers of the requirements established under section 304 (a); and complaints as to rates, fares, and charges of motor carriers or the practices of brokers: *Provided, however,* That if the Commission is prevented by legal proceedings from referring a matter to a joint board, it may determine such matter as provided in paragraph (a) of this section. The Commission, in its discretion, may also refer to a joint board any investigation and suspension proceeding or other matter not specifically mentioned above which may arise under this chapter. The joint board to which any such matter is referred shall be composed solely of one member from each State within which the motor-carrier or brokerage operations involved in such matter are or are proposed to be conducted: *Provided,* That the Commission may designate an examiner or examiners to advise with and assist the joint board under such rules and regulations as it may prescribe. In acting upon matters so referred joint boards shall be vested with the same rights, duties, powers, and jurisdiction as are hereinbefore vested in members or examiners of the Commission while acting under its orders in the administration of this chapter. Orders recommended by joint boards shall be filed with the Commission, and shall become orders of the Commission and become effective in the same manner, and shall be subject to the same procedure, as provided in the case of orders recommended by members or examiners under this section.

(c) **Creation of joint board; rules and procedure; nominations for membership; procedure on failure of board to act.** Whenever there arises in the administration of this chapter any matter that the Commission is required to refer to a joint board, or that the Commission determines, in its discretion, to refer to a joint board, the Commission shall, if no joint board eligible to consider said matter is in existence, create a joint board to consider the matter when referred, and to recommend appropriate order thereon. The Commission shall prescribe rules governing meetings and procedure of joint boards and may, in the event of legal proceedings preventing reference to a joint board, determine the matter as provided in paragraph (a) of this section. Except as hereinafter provided, a joint board shall consist of a member from each State in which the motor carrier or brokerage operations involved are or are proposed to be conducted. The member from any such State shall be nominated by the board of such State from its own membership or otherwise; or if there is no board in such State or if the board of such State

fails to make a nomination when requested by the Commission, then the Governor of such State may nominate such member. The Commission is authorized to appoint as a member upon the joint board any such nominee approved by it. If both the Board and the Governor of any State shall fail to nominate a joint board member when requested, then the joint board shall be constituted without a member from such State, if members for two or more States shall have been nominated and approved by the Commission. All decisions and recommendations by joint boards shall be by majority vote. If the board of each State from which a member of a joint board is entitled to be appointed shall waive action on any matter referred to such joint board, or if any joint board fails or refuses to act, or is unable to agree upon any matter submitted to it within forty-five days after the matter is referred to it or such other period as the Commission may authorize, or if a member shall not be nominated for more than one State (except only when the operations proposed shall be into or through territory foreign to the United States), then such matter shall be decided as in the case of any matter not required to be referred to a joint board. When any proceeding required to be referred to a joint board shall involve operations of a motor carrier conducted or proposed to be conducted into or through territory foreign to the United States, if a single State shall be involved, or if only one State shall make nomination of a joint board member through its Governor or State board, then the Commission, in such case, may receive from that State the nomination of not more than three members and may appoint such nominees to constitute the joint board. Members of joint boards when administering the provisions of this chapter shall receive such allowances for travel and subsistence expenses as the Commission shall provide. A joint board shall continue in existence for the consideration of matters referred to it by the Commission until such time as its existence may be terminated by the Commission. A substitution of membership upon a joint board from any State may be made at any time by nomination and appointment in the same manner as an original nomination and appointment.

(d) **Place of holding hearings.** Where practicable and as the Commission may by rule or order direct, hearings by any member, examiner, or joint board upon any matter referred to him or to such board shall be held at such places within the United States as are convenient to the parties.

(e) **Oaths; attendance of witnesses and production of documents.** So far as may be necessary for the purposes of this chapter, the Commission and the members and examiners thereof and joint boards shall have the same power to administer oaths, and require by subpoena the attendance and testimony of witnesses and the production of books, papers, tariffs, contracts, agreements, and documents, and to take testimony by deposition, relating to any matter under investigation, as the Commission has in a matter arising under chapter 1 of this title; and any person subpoenaed or testifying in connection with any matter under investigation under this chapter shall have the same rights, privileges, and immunities and be subject to the same duties, liabilities, and penalties as though such matter arose under chapter 1 of this title, unless otherwise provided in this chapter.

(f) **Notice of proceedings and opportunity for hearing.** In accordance with rules prescribed by the Commission, reasonable notice shall be afforded, in connection with any proceeding under this chapter, to interested parties and to the board of any State, or to the governor if there be no board, in which the motor-carrier operations involved in the proceeding are or are proposed to be conducted, and opportunity for hearing and for intervention in connection

with any such proceeding shall be afforded to all interested parties.

(g) **Joint hearings with state authorities; offices for boards and state commissions.** The Commission is authorized to confer with or to hold joint hearings with any authorities of any State in connection with any matter arising in any proceedings under this chapter. The Commission is also authorized to avail itself of the cooperation, services, records, and facilities of such State authorities as fully as may be practicable, in the enforcement or administration of any provision of this chapter. From any space in the Interstate Commerce Commission Building not required by the Commission, the Government authority controlling the allocation of space in public buildings shall assign for the use of the national organization of the State commissions and of their representatives suitable office space and facilities which shall be at all times available for the use of joint boards created under this chapter and for members and representatives of such boards cooperating with the Commission or with any other Federal commission or department under this or any other Act; and if there be no such suitable space in the Interstate Commerce Commission Building, the same shall be assigned in some other building in convenient proximity thereto.

(h) **Court review of Commission's orders; compelling Commission to take jurisdiction.** Any final order made under this chapter shall be subject to the same right of relief in court by any party in interest as is now provided in respect to orders of the Commission made under chapter 1 of this title: *Provided*, That, where the Commission, in respect of any matter arising under this chapter, shall have issued a negative order solely because of a supposed lack of power, any such party in interest may file a bill of complaint with the appropriate District Court of the United States, convened under section 43 of Title 28, and such court, if it determines that the Commission has such power, may enforce by writ of mandatory injunction the Commission's taking of jurisdiction.

(i) **Application of section 17 of this title.** All the provisions of section 17 of chapter 1 of this title shall apply to all proceedings under this chapter.

(j) **Pecuniary interest in motor carrier under investigation forbidden.** No member or examiner of the Commission or member of a joint board shall hold any official relation to, or own any securities of, or be in any manner pecuniarily interested in, any motor carrier or in any carrier by railroad, water, or other form of transportation.

(k) **Employees, examiners, attorneys, etc.; authority to employ.** The Commission is authorized to employ, and to fix the compensation of, such experts, assistants, special agents, examiners, attorneys, and other employees as in its judgment may be necessary or advisable for the convenience of the public and for the effective administration of this chapter. (Feb. 4, 1887, c. 104, Part II, § 205, as added Aug. 9, 1935, c. 498, § 1, 49 Stat. 548.)

§ 306. **Certificate of convenience and necessity—(a) Necessity for; motor carriers in bona fide operation on June 1, 1935.** No common carrier by motor vehicle subject to the provisions of this chapter shall engage in any interstate or foreign operation on any public highway, or within any reservation under the exclusive jurisdiction of the United States, unless there is in force with respect to such carrier a certificate of public convenience and necessity issued by the Commission authorizing such operations: *Provided, however*, That, subject to section 310, if any such carrier or predecessor in interest was in bona fide operation as a common carrier by motor vehicle on June 1, 1935, over the route or routes or within the territory for which application is made and has so operated since

that time, or if engaged in furnishing seasonal service only, was in bona fide operation on June 1, 1935, during the season ordinarily covered by its operation, except in either instance as to interruptions of service over which the applicant or its predecessor in interest had no control, the Commission shall issue such certificate without requiring further proof that public convenience and necessity will be served by such operation, and without further proceedings, if application for such certificate is made to the Commission as provided in paragraph (b) of this section and within one hundred and twenty days after this section shall take effect, and if such carrier was registered on June 1, 1935, under any code of fair competition requiring registration, the fact of registration shall be evidence of bona fide operation to be considered in connection with the issuance of such certificate. Otherwise the application for such certificate shall be decided in accordance with the procedure provided for in section 307 (a) of this chapter and such certificate shall be issued or denied accordingly. Pending the determination of any such application the continuance of such operation shall be lawful: *And provided further*, That this paragraph shall not be so construed as to require any such carrier lawfully engaged in operation solely within any State to obtain from the Commission a certificate authorizing the transportation by such carrier of passengers or property in interstate or foreign commerce between places within such State if there be a board in such State having authority to grant or approve such certificates and if such carrier has obtained such certificate from such board. Such transportation shall, however, be otherwise subject to the jurisdiction of the Commission under this chapter.

(b) **Application for certificate; form and contents.** Application for certificates shall be made in writing to the Commission, be verified under oath, and shall be in such form and contain such information and be accompanied by proof of service upon such interested parties as the Commission shall, by regulation, require. Any person, not included within the provisions of paragraph (a) of this section, who or which is engaged in transportation in interstate or foreign commerce as a common carrier by motor vehicle when this section takes effect may continue such operation for a period of one hundred and twenty days thereafter without a certificate and, if application for such certificate is made to the Commission within such period, the carrier may, under such regulations as the Commission shall prescribe, continue such operation until otherwise ordered by the Commission. (Feb. 4, 1887, c. 104, Part II, § 206, as added Aug. 9, 1935, c. 498, § 1, 49 Stat. 551.)

Effective date of section, see section 327 of this chapter.

§ 307. **Issuance of certificate—(a) Issuance authorized to qualified applicants for regular routes and between fixed termini.** Subject to section 310, a certificate shall be issued to any qualified applicant therefor, authorizing the whole or any part of the operations covered by the application, if it is found that the applicant is fit, willing, and able properly to perform the service proposed and to conform to the provisions of this chapter and the requirements, rules, and regulations of the Commission thereunder, and that the proposed service, to the extent to be authorized by the certificate, is or will be required by the present or future public convenience and necessity; otherwise such application shall be denied: *Provided, however*, That no such certificate shall be issued to any common carrier of passengers by motor vehicle for operations over other than a regular route or routes, and between fixed termini, except as such carriers may be authorized to engage in special or charter operations.

(b) **Certificate not to confer proprietary or property rights in highway.** No certificate issued under this chapter shall confer any proprietary or property rights in the use of the public highways. (Feb. 4, 1887, c. 104, Part II, § 207, as added Aug. 9, 1935, c. 498, § 1, 49 Stat. 551.)

§ 308. **Terms and conditions of certificate—(a) Specification of routes and termini; extension of routes; restriction on additions to equipment.** Any certificate issued under section 306 or 307 shall specify the service to be rendered and the routes over which, the fixed termini, if any, between which, and the intermediate and off-route points, if any, at which, and in case of operations not over specified routes or between fixed termini, the territory within which, the motor carrier is authorized to operate; and there shall, at the time of issuance and from time to time thereafter, be attached to the exercise of the privileges granted by the certificate such reasonable terms, conditions, and limitations as the public convenience and necessity may from time to time require, including terms, conditions, and limitations as to the extension of the route or routes of the carrier, and such terms and conditions as are necessary to carry out, with respect to the operations of the carrier, the requirements established by the Commission under section 304 (a) (1) and (6): *Provided, however*, That no terms, conditions, or limitations shall restrict the right of the carrier to add to his or its equipment and facilities over the routes, between the termini, or within the territory specified in the certificate, as the development of the business and the demands of the public shall require.

(b) **Deviation from route.** A common carrier by motor vehicle operating under any such certificate may occasionally deviate from the route over which, and/or the fixed termini between which, it is authorized to operate under the certificate, under such general or special rules and regulations as the Commission may prescribe.

(c) **Transportation of special or chartered parties.** Any common carrier by motor vehicle transporting passengers under a certificate issued under this chapter may transport in interstate or foreign commerce to any place special or chartered parties under such rules and regulations as the Commission shall have prescribed.

(d) **Transportation of baggage, newspapers, express or mail.** A certificate for the transportation of passengers may include authority to transport in the same vehicle with the passengers, newspapers, baggage of passengers, express, or mail, or to transport baggage of passengers in a separate vehicle. (Feb. 4, 1887, c. 104, Part II, § 208, as added Aug. 9, 1935, c. 498, § 1, 49 Stat. 552.)

§ 309. **Contract carriers by motor vehicle—(a) Permit essential to operation; carriers in bona fide operation on July 1, 1935; laws relating to national parks and monuments unaffected.** No person shall engage in the business of a contract carrier by motor vehicle in interstate or foreign commerce on any public highway or within any reservation under the exclusive jurisdiction of the United States unless there is in force with respect to such carrier a permit issued by the Commission, authorizing such person to engage in such business: *Provided*, That, subject to section 310, if any such carrier or a predecessor in interest was in bona fide operation as a contract carrier by motor vehicle on July 1, 1935, over the route or routes or within the territory for which application is made and has so operated since that time, or, if engaged in furnishing seasonal service, only, was in bona fide operation on July 1, 1935, during the season ordinarily covered by its operations, except in either instance as to interruptions of service over which the applicant or its predecessor in interest had no control, the Commission shall issue such permit, without further proceedings, if application for such permit is made to the Commission as provided in paragraph (b) of this section and within one hundred and twenty days after this section shall take effect and if such carrier was registered on July 1, 1935, under any code of fair competition requiring registration, the fact of registration shall be evidence of bona fide operation to be considered in connection with the issuance of such permit. Otherwise the application for such permit shall be decided

in accordance with the procedure provided for in paragraph (b) of this section and such permit shall be issued or denied accordingly. Pending determination of any such application the continuance of such operation shall be lawful. Any person, not included within the foregoing provisions of this paragraph, who or which is engaged in transportation as a contract carrier by motor vehicle when this section takes effect, may continue such operation for a period of one hundred and twenty days thereafter without a permit and, if application for such permit is made within such period, the carrier may, under such regulations as the Commission shall prescribe, continue such operation until otherwise ordered by the Commission: *Provided further*, That nothing in this chapter shall be construed to repeal, amend, or otherwise modify any Act or Acts relating to national parks and national monuments under the administrative jurisdiction of the Secretary of the Interior, or to withdraw such authority or control as may by law be held by the Secretary of the Interior with respect to the admission and operation of motor vehicles in any national park or national monument of the United States.

**(b) Application for permit; form and contents; issuance of permit; terms and conditions.** Applications for such permits shall be made to the Commission in writing, be verified under oath, and shall be in such form and contain such information and be accompanied by proof of service upon such interested parties as the Commission may, by regulations, require. Subject to section 310, a permit shall be issued to any qualified applicant therefor authorizing in whole or in part the operations covered by the application, if it appears from the applications or from any hearing held thereon, that the applicant is fit, willing, and able properly to perform the service of a contract carrier by motor vehicle, and to conform to the provisions of this chapter and the lawful requirements, rules, and regulations of the Commission thereunder, and that the proposed operation, to the extent authorized by the permit, will be consistent with the public interest and the policy declared in section 302 (a) of this chapter; otherwise such application shall be denied. The Commission shall specify in the permit the business of the contract carrier covered thereby and the scope thereof and shall attach to it, at the time of issuance, and from time to time thereafter, such reasonable terms, conditions, and limitations consistent with the character of the holder as a contract carrier as are necessary to carry out, with respect to the operations of such carrier, the requirements established by the Commission under section 304 (a) (2) and (6): *Provided, however*, That no terms, conditions, or limitations shall restrict the right of the carrier to substitute or add contracts within the scope of the permit, or to add to his or its equipment and facilities, within the scope of the permit, as the development of the business and the demands of the public may require. (Feb. 4, 1887, c. 104, Part II, § 209, as added Aug. 9, 1935, c. 498, § 1, 49 Stat. 552.)

Effective date of section, see section 327 of this chapter.

**§ 310. Dual operation.** No person, after January 1, 1936, shall at the same time hold under this chapter a certificate as a common carrier and a permit as a contract carrier authorizing operation for the transportation of property by motor vehicle over the same route or within the same territory, unless for good cause shown the Commission shall find that such certificate and permit may be held consistently with the public interest and with the policy declared in section 302 (a) of this chapter. (Feb. 4, 1887, c. 104, Part II, § 210, as added Aug. 9, 1935, c. 498, § 1, 49 Stat. 554.)

**§ 311. Motor transportation brokers—(a) License required.** No person shall for compensation sell or offer for sale transportation subject to this chapter or shall make any contract, agreement, or arrange-

ment to provide, procure, furnish, or arrange for such transportation or shall hold himself or itself out by advertisement, solicitation, or otherwise as one who sells, provides, procures, contracts, or arranges for such transportation, unless such person holds a broker's license issued by the Commission to engage in such transactions: *Provided, however*, That no such person shall engage in transportation subject to this chapter unless he holds a certificate or permit as provided in this chapter. In the execution of any contract, agreement, or arrangement to sell, provide, procure, furnish, or arrange for such transportation, it shall be unlawful for such person to employ any carrier by motor vehicle who or which is not the lawful holder of an effective certificate or permit issued as provided in this chapter: *And provided further*, That the provisions of this paragraph shall not apply to any carrier holding a certificate or a permit under the provisions of this chapter or to any bona fide employee or agent of such motor carrier, so far as concerns transportation to be furnished wholly by such carrier or jointly with other motor carriers holding like certificates or permits, or with a common carrier by railroad, express, or water.

**(b) Issuance of license; brokers in operation prior to enactment of section.** A brokerage license shall be issued to any qualified applicant therefor, authorizing the whole or any part of the operations covered by the application, if it is found that the applicant is fit, willing, and able properly to perform the service proposed and to conform to the provisions of this chapter and the requirements, rules, and regulations of the Commission thereunder, and that the proposed service, to the extent to be authorized by the license, is, or will be consistent with the public interest and the policy declared in section 302 (a) of this chapter; otherwise such application shall be denied. Any broker in operation when this section takes effect may continue such operation for a period of one hundred and twenty days thereafter without a license, and if application for such license is made within such period, the broker may, under such regulations as the Commission shall prescribe, continue such operations until otherwise ordered by the Commission.

**(c) Rules and regulations; bond or other security required.** The Commission shall prescribe reasonable rules and regulations for the protection of travelers or shippers by motor vehicle, to be observed by any person holding a brokerage license, and no such license shall be issued or remain in force unless such person shall have furnished a bond or other security approved by the Commission, in such form and amount as will insure financial responsibility and the supplying of authorized transportation in accordance with contracts, agreements, or arrangements therefor.

**(d) Inspection of accounts, records, etc.** The Commission and its special agents and examiners shall have the same authority as to accounts, reports, and records, including inspection and preservation thereof, of any person holding a brokerage license issued under the provisions of this section, that they have under this chapter with respect to motor carriers subject thereto. (Feb. 4, 1887, c. 104, Part II, § 211, as added Aug. 9, 1935, c. 498, § 1, 49 Stat. 554.)

Effective date of section, see section 327 of this chapter.

**§ 312. Suspension, change, revocation and transfer of certificates, permits and licenses.** (a) Certificates, permits, and licenses shall be effective from the date specified therein, and shall remain in effect until terminated as herein provided. Any such certificate, permit, or license may, upon application of the holder thereof, in the discretion of the Commission, be amended or revoked, in whole or in part, or may upon complaint, or on the Commission's own initiative, after notice and hearing, be suspended, changed, or revoked, in whole or in part, for willful failure to comply with any provision of this chapter, or with any lawful order, rule, or regulation of the Com-

mission promulgated thereunder, or with any term, condition, or limitation of such certificate, permit, or license: *Provided, however*, That no such certificate, permit, or license shall be revoked (except upon application of the holder) unless the holder thereof willfully fails to comply, within a reasonable time, not less than ninety days, to be fixed by the Commission, with a lawful order of the Commission, made as provided in section 304 (d), commanding obedience to the provision of this chapter, or to the rule or regulation of the Commission thereunder, or to the term, condition, or limitation of such certificate, permit, or license, found by the Commission to have been violated by such holder.

(b) Except as provided in section 313, any certificate or permit may be transferred, pursuant to such rules and regulations as the Commission may prescribe. (Feb. 4, 1887, c. 104, Part II, § 212, as added Aug. 9, 1935, c. 498, § 1, 49 Stat. 555.)

**§ 313. Consolidation, merger, acquisition and control—(a) Authorization; application; notice, hearing and order; application by carrier or person not a motor carrier, application of provisions relating to accounts, records, etc.** It shall be lawful, under the conditions specified below, but under no other conditions, for two or more motor carriers which are not also carriers by railroad to consolidate or merge their properties, or any part thereof, into one corporation for the ownership, management, and/or operation of the properties theretofore in separate ownership; or for any such motor carriers or two or more such carriers jointly, to purchase, lease, or contract to operate the properties, or any part thereof, of another such carrier; or for any such motor carrier or two or more such carriers jointly, to acquire control of another such carrier through purchase of its stock; or for a person which is not a motor carrier or a carrier by railroad, or express, or water to acquire control of two or more motor carriers through ownership of their stock; or for any such person which has control of one or more motor carriers to acquire control of another such carrier through ownership of its stock; or for a carrier by railroad, express, or water to consolidate, or merge with, or acquire control of, any motor carrier or to purchase, lease, or contract to operate its properties, or any part thereof.

(1) Whenever a consolidation, merger, purchase, lease, operating contract, or acquisition of control is proposed under this section, the carrier or carriers or the person seeking authority therefor shall present an application to the Commission, and thereupon the Commission shall notify the Governor of each State in which any part of the properties or operations of the carriers involved in the proposed transaction is situated, and also such carriers and the applicant or applicants, and other parties known to have a substantial interest in the proceeding of the time and place for a public hearing. If after such hearing the Commission finds that the transaction proposed will be consistent with the public interest and that the conditions of this section have been or will be fulfilled, it may enter an order approving and authorizing such consolidation, merger, purchase, lease, operating contract, or acquisition of control, upon such terms and conditions as it shall find to be just and reasonable and with such modifications as it may prescribe: *Provided, however*, That if a carrier other than a motor carrier is an applicant, or any person which is controlled by such a carrier other than a motor carrier or affiliated therewith within the meaning of section 5 (8) of this title, the Commission shall not enter such an order unless it finds that the transaction proposed will promote the public interest by enabling such carrier other than a motor carrier to use service by motor vehicle to public advantage in its operations and will not unduly restrain competition.

(2) Whenever a person which is not a motor carrier is authorized, by an order entered under subparagraph (1) of this section, to acquire control of any such carrier or of two or more such carriers, such person thereafter shall, to the extent provided by the Commis-

sion, for the purposes of section 304 (a) (1), and section 320 (a) and (b), relating to accounts, records, and reports, and to the inspection of facilities and records, including the penalties applicable in the case of violations thereof, be subject to the provisions of this chapter.

**(b) Effectuating control in common interest except as provided by this section unlawful; exception as to railroads; investigation, hearing and order.**

(1) It shall be unlawful for any person, except as provided in paragraph (a), to accomplish or effectuate, or to participate in accomplishing or effectuating, the control or management in a common interest of any two or more motor carriers which are not also carriers by railroad, however such result is attained, whether directly or indirectly, by use of common directors, officers, or stockholders, a holding or investment company or companies, a voting trust or trusts, or in any other manner whatsoever. It shall be unlawful to continue to maintain control or management accomplished or effectuated after Aug. 9, 1935 and in violation of this paragraph. As used in this paragraph, the words "control or management" shall be construed to include the power to exercise control or management.

(2) The Commission is hereby authorized, upon complaint or upon its own initiative without complaint, but after notice and hearing, to investigate and determine whether any person is violating the provisions of paragraph (b) (1) of this section. If the Commission finds after such investigation that such person is violating the provisions of such paragraph, it shall by order require such person to take such action consistent with the provisions of this chapter as may be necessary, in the opinion of the Commission, to prevent further violation of such provisions.

(3) For the purposes of this section, wherever reference is made to control, it is immaterial whether such control is direct or indirect.

**(c) Jurisdiction of district courts to restrain violations and enforce orders.** The district courts of the United States shall have jurisdiction upon the application of the Commission, alleging a violation of any of the provisions of this section or disobedience of any order issued by the Commission thereunder by any person, to issue such writs of injunction or other proper process, mandatory or otherwise, as may be necessary to restrain such person from violation of such provision or to compel obedience to such order.

**(d) Supplemental orders.** The Commission may from time to time, for good cause shown, make such orders, supplemental to any order made under paragraphs (a) or (b), as it may deem necessary or appropriate.

**(e) Number of vehicles involved as affecting application of section.** Except where a carrier other than a motor carrier is an applicant or any person which is controlled by such a carrier or carriers by railroad or affiliated therewith within the meaning of section 5 (8) of this title, the provisions of this section requiring authority from the Commission for consolidation, merger, purchase, lease, operating contract, or acquisition of control shall not apply where the total number of motor vehicles involved is not more than twenty.

**(f) Relief from operation of antitrust laws.** The carriers and any person affected by any order made under the foregoing provisions of this section shall be, and they are hereby, relieved from the operation of the "antitrust laws", as designated in section 12 of Title 15, and of all other restraints or prohibitions by or imposed under authority of law, State or Federal, insofar as may be necessary to enable them to do anything authorized or required by such order. (Feb. 4, 1887, c. 104, Part II, § 213, as added Aug. 9, 1935, c. 498, § 1, 49 Stat. 555.)

**§ 314. Issuance of securities.** Common or contract carriers by motor vehicle, corporations organized for the purpose of engaging in transportation as such carriers, and corporations authorized by order entered under section 313 (a) (1) to acquire control of any such carrier, or of two or more such carriers,



shall be subject to the provisions of paragraphs 2 to 11, inclusive, of section 20a of this title (including penalties applicable in cases of violations thereof): *Provided, however,* That said provisions shall not apply to such carriers or corporations where the par value of the securities to be issued, together with the par value of the securities then outstanding, does not exceed \$500,000. In the case of securities having no par value, the par value for the purpose of this section shall be the fair market value as of the date of their issue. (Feb. 4, 1887, c. 104, Part II, § 214, as added Aug. 9, 1935, c. 498, § 1, 49 Stat. 557.)

§ 315. **Security for protection of public.** No certificate or permit shall be issued to a motor carrier or remain in force, unless such carrier complies with such reasonable rules and regulations as the Commission shall prescribe governing the filing and approval of surety bonds, policies of insurance, qualifications as a self-insurer or other securities or agreements, in such reasonable amount as the Commission may require, conditioned to pay, within the amount of such surety bonds, policies of insurance, qualifications as a self-insurer or other securities or agreements, any final judgment recovered against such motor carrier for bodily injuries to or the death of any person resulting from the negligent operation, maintenance, or use of motor vehicles under such certificate or permit, or for loss or damage to property of others. The Commission may, in its discretion and under such rules and regulations as it shall prescribe, require any such common carrier to file a surety bond, policies of insurance, qualifications as a self-insurer, or other securities or agreements, in a sum to be determined by the Commission, to be conditioned upon such carrier making compensation to shippers and/or consignees for all property belong [sic] to shippers and/or consignees, and coming into the possession of such carrier in connection with its transportation service. Any carrier which may be required by law to compensate a shipper and/or consignee for any loss, damage, or default for which a connecting motor common carrier is legally responsible shall be subrogated to the rights of such shipper and/or consignee under any such bond, policies of insurance, or other securities or agreements, to the extent of the sum so paid. (Feb. 4, 1887, c. 104, Part II, § 215, as added Aug. 9, 1935, c. 498, § 1, 49 Stat. 557.)

§ 316. **Rates, fares and charges—(a) Duty to establish reasonable rates, etc.; service and equipment; rules and regulations; reasonable divisions of joint fares.** It shall be the duty of every common carrier of passengers by motor vehicle to establish reasonable through routes with other such common carriers and to provide safe and adequate service, equipment, and facilities for the transportation of passengers in interstate or foreign commerce; to establish, observe, and enforce just and reasonable individual and joint rates, fares, and charges, and just and reasonable regulations and practices relating thereto, and to the issuance, form, and substance of tickets, the carrying of personal, sample, and excess baggage, the facilities for transportation, and all other matters relating to or connected with the transportation of passengers in interstate or foreign commerce; and in case of such joint rates, fares, and charges, to establish just, reasonable, and equitable divisions thereof as between the carriers participating therein which shall not unduly prefer or prejudice any of such participating carriers.

(b) **Rates, facilities for carriers of property.** It shall be the duty of every common carrier of property by motor vehicle to provide safe and adequate service, equipment, and facilities for the transportation of property in interstate or foreign commerce; to establish, observe, and enforce just and reasonable rates, charges, and classifications, and just and reasonable regulations and practices relating thereto and to the manner and method of presenting, marking, packing, and delivering property for transportation, the facilities for transportation, and all other matters relating

to or connected with the transportation of property in interstate or foreign commerce.

(c) **Through routes and joint rates.** Common carriers of property by motor vehicle may establish reasonable through routes and joint rates, charges, and classifications with other such carriers or with common carriers by railroad and/or express and/or water; and common carriers of passengers by motor vehicle may establish reasonable through routes and joint rates, fares, or charges with common carriers by railroad and/or water. In case of such joint rates, fares, or charges it shall be the duty of the carriers parties thereto to establish just and reasonable regulations and practices in connection therewith, and just, reasonable, and equitable divisions thereof as between the carriers participating therein which shall not unduly prefer or prejudice any of such participating carriers.

(d) **Undue preferences or prejudices prohibited.** It shall be unlawful for any common carrier by motor vehicle engaged in interstate or foreign commerce to make, give, or cause any undue or unreasonable preference or advantage to any particular person, port, gateway, locality, or description of traffic in any respect whatsoever, or to subject any particular person, port, gateway, locality, or description of traffic to any unjust discrimination or any undue or unreasonable prejudice or disadvantage in any respect whatsoever: *Provided, however,* That this paragraph shall not be construed to apply to discriminations, prejudice or disadvantage to the traffic of any other carrier of whatever description.

(e) **Complaints to and investigation by commission; power of commission to fix reasonable rates, regulations, etc.** Any person, State board, organization, or body politic may make complaint in writing to the Commission that any such rate, fare, charge, classification, rule, regulation, or practice, in effect or proposed to be put into effect, is or will be in violation of this section or of section 317. Whenever, after hearing, upon complaint or in an investigation on its own initiative, the Commission shall be of the opinion that any individual or joint rate, fare, or charge, demanded, charged, or collected by any common carrier or carriers by motor vehicle or by any common carrier or carriers by motor vehicle in conjunction with any common carrier or carriers by railroad and/or express, and/or water for transportation in interstate or foreign commerce, or any classification, rule, regulation, or practice whatsoever of such carrier or carriers affecting such rate, fare, or charge or the value of the service thereunder, is or will be unjust or unreasonable, or unjustly discriminatory or unduly preferential or unduly prejudicial, it shall determine and prescribe the lawful rate, fare, or charge or the maximum or minimum, or maximum and minimum rate, fare, or charge thereafter to be observed, or the lawful classification, rule, regulation, or practice thereafter to be made effective and the Commission shall, whenever deemed by it to be necessary or desirable in the public interest, after hearing, upon complaint or upon its own initiative without a complaint, establish through routes and joint rates, fares, charges, regulations, or practices, applicable to the transportation of passengers by common carriers by motor vehicle, or the maxima or minima, or maxima and minima, to be charged, and the terms and conditions under which such through routes shall be operated: *Provided, however,* That nothing in this chapter shall empower the Commission to prescribe, or in any manner regulate, the rate, fare, or charge for intrastate transportation, or for any service connected therewith, for the purpose of removing discrimination against interstate commerce or for any other purpose whatever.

(f) **Commission empowered to establish just division of joint rates.** Whenever, after hearing, upon complaint or upon its own initiative, the Commission is of opinion that the divisions of joint rates, fares, or charges, applicable to the transportation in interstate or foreign commerce of passengers or property by common carriers by motor vehicle or by such

carriers in conjunction with common carriers by railroad and/or express, and/or water are or will be unjust, unreasonable, inequitable, or unduly preferential or prejudicial as between the carriers parties thereto (whether agreed upon by such carriers, or any of them, or otherwise established), the Commission shall by order prescribe the just, reasonable, and equitable divisions thereof to be received by the several carriers, and in cases where the joint rate, fare, or charge was established pursuant to a finding or order of the Commission and the divisions thereof are found by it to have been unjust, unreasonable, or inequitable, or unduly preferential or prejudicial, the Commission may also by order determine what would have been the just, reasonable, and equitable divisions thereof to be received by the several carriers, and require adjustment to be made in accordance therewith. The order of the Commission may require the adjustment of divisions between the carriers, in accordance with the order, from the date of filing the complaint or entry of order of investigation or such other date subsequent as the Commission finds justified and, in the case of joint rates prescribed by the Commission, the order as to divisions may be made effective as a part of the original order.

(g) **New rates; determination of fairness by commission; suspension.** Whenever there shall be filed with the Commission any schedule stating a new individual or joint rate, fare, charge, or classification for the transportation of passengers or property by a common carrier or carriers by motor vehicle, or by any such carrier or carriers in conjunction with a common carrier or carriers by railroad and/or express, and/or water in interstate or foreign commerce, or any rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, the Commission is hereby authorized and empowered upon complaint of any interested party or upon its own initiative at once and, if it so orders, without answer or other formal pleading by the interested carrier or carriers, but upon reasonable notice, to enter upon a hearing concerning the lawfulness of such rate, fare, or charge, or such rule, regulation, or practice, and pending such hearing and the decision thereon the Commission, by filing with such schedule and delivering to the carrier or carriers affected thereby a statement in writing of its reasons for such suspension, may suspend the operation of such schedule and defer the use of such rate, fare, or charge, or such rule, regulation, or practice, for a period of ninety days and if the proceeding has not been concluded and a final order made within such period the Commission may, from time to time, extend the period of suspension by order, but not for a longer period in the aggregate than one hundred and eighty days beyond the time when it would otherwise go into effect; and after hearing, whether completed before or after the rate, fare, charge, classification, rule, regulation, or practice goes into effect, the Commission may make such order with reference thereto as would be proper in a proceeding instituted after it had become effective. If the proceeding has not been concluded and an order made within the period of suspension, the proposed change of rate, fare, or charge, or classification, rule, regulation, or practice, shall go into effect at the end of such period: *Provided*, That this paragraph shall not apply to any initial schedule or schedules filed by any such carrier in bona fide operation when this section takes effect.

(h) **Good will, earning power or certificate inadmissible in proceedings to determine rates.** In any proceeding to determine the justness or reasonableness of any rate, fare, or charge of any such carrier, there shall not be taken into consideration or allowed as evidence or elements of value of the property of such carrier, either good will, earning power, or the certificate under which such carrier is operating; and in applying for and receiving a certificate under this chapter any such carrier shall be deemed to have agreed to the provisions of this paragraph, on its own behalf and on behalf of all transferees of such certificate.

(i) **Transportation needs and fair return considered in determining rates, etc.** In the exercise of its power to prescribe just and reasonable rates for the transportation of passengers or property by common carriers by motor vehicle the Commission shall give due consideration, among other factors, to the inherent advantages of transportation by such carriers to the effect of rates upon the movement of traffic by such carriers; to the need, in the public interest, of adequate and efficient transportation service by such carriers at the lowest cost consistent with the furnishing of such service; and to the need of revenues sufficient to enable such carriers, under honest, economical, and efficient management, to provide such service.

(j) **Effect on remedy or right of action.** Nothing in this section shall be held to extinguish any remedy or right of action not inconsistent herewith. (Feb. 4, 1887, c. 104, Part II, § 216, as added Aug. 9, 1935, c. 498, § 1, 49 Stat. 558.)

Effective date of section, see section 827 of this title.

§ 317. **Tariffs of common carriers by motor vehicle—(a) Filing, posting and publication.** Every common carrier by motor vehicle shall file with the Commission, and print, and keep open to public inspection, tariffs showing all the rates, fares, and charges for transportation, and all services in connection therewith, of passengers or property in interstate or foreign commerce between points on its own route and between points on its own route and points on the route of any other such carrier, or on the route of any common carrier by railroad and/or express and/or water, when a through route and joint rate shall have been established. Such rates, fares, and charges shall be stated in terms of lawful money of the United States. The tariffs required by this section shall be published, filed, and posted in such form and manner, and shall contain such information, as the Commission by regulations shall prescribe; and the Commission is authorized to reject any tariff filed with it which is not in consonance with this section and with such regulations. Any tariff so rejected by the Commission shall be void and its use shall be unlawful.

(b) **Deviation from rates and regulations enumerated in tariff forbidden; undue preferences.** No common carrier by motor vehicle shall charge or demand or collect or receive a greater or less or different compensation for transportation or for any service in connection therewith between the points enumerated in such tariff than the rates, fares, and charges specified in the tariffs in effect at the time; and no such carrier shall refund or remit in any manner or by any device, directly or indirectly, or through any agent or broker or otherwise, any portion of the rates, fares, or charges so specified, or extend to any person any privileges or facilities for transportation in interstate or foreign commerce except such as are specified in its tariffs: *Provided*, That the provisions of sections 1 (7) and 22 (1) of this title shall apply to common carriers by motor vehicles subject to this chapter.

(c) **Change in tariffs; filing and posting notice; powers of commission.** No change shall be made in any rate, fare, charge, or classification, or any rule, regulation, or practice affecting such rate, fare, charge, or classification, or the value of the service thereunder, specified in any effective tariff of a common carrier by motor vehicle, except after 30 days' notice of the proposed change filed and posted in accordance with paragraph (a) of this section. Such notice shall plainly state the change proposed to be made and the time when such change will take effect. The Commission may, in its discretion and for good cause shown, allow such change upon notice less than that herein specified or modify the requirements of this section with respect to posting and filing of tariffs either in particular instances or by general order applicable to special or peculiar circumstances or conditions.

(d) **Transportation without filing tariff forbidden.** No common carrier by motor vehicle, unless otherwise



provided by this chapter, shall engage in the transportation of passengers or property unless the rates, fares, and charges upon which the same are transported by said carrier have been filed and published in accordance with the provisions of this chapter. (Feb. 4, 1887, c. 104, Part II, § 217, as added Aug. 9, 1935, c. 498, § 1, 49 Stat. 560.)

§ 318. Schedules of contract carriers by motor vehicle—(a) Filing and posting schedules and contracts affecting rates; notice of and hearing on proposed changes; undue preferences. It shall be the duty of every contract carrier by motor vehicle to file with the Commission, publish, and keep open for public inspection, in the form and manner prescribed by the Commission, schedules or, in the discretion of the Commission, copies of contracts containing the minimum charges of such carrier for the transportation of passengers or property in interstate or foreign commerce, and any rule, regulation, or practice affecting such charges and the value of the service thereunder. No such contract carrier, unless otherwise provided by this chapter, shall engage in the transportation of passengers or property in interstate or foreign commerce unless the minimum charges for such transportation by said carrier have been published, filed, and posted in accordance with the provisions of this chapter. No reduction shall be made in any such charge either directly or by means of any change in any rule, regulation, or practice affecting such charge or the value of service thereunder, except after thirty days' notice of the proposed change filed in the aforesaid form and manner; but the Commission may, in its discretion and for good cause shown, allow such change upon less notice, or modify the requirements of this paragraph with respect to posting and filing of such schedules or copies of contracts, either in particular instances, or by general order applicable to special or peculiar circumstances or conditions. Such notice shall plainly state the change proposed to be made and the time when such change will take effect. No such carrier shall demand, charge, or collect a less compensation for such transportation than the charges filed in accordance with this paragraph, as affected by any rule, regulation, or practice so filed, or as may be prescribed by the Commission from time to time, and it shall be unlawful for any such carrier, by the furnishing of special services, facilities, or privileges, or by any other device whatsoever, to charge, accept, or receive less than the minimum charges so filed or prescribed: *Provided*, That any such carrier or carriers, or any class or group thereof, may apply to the Commission for relief from the provisions of this paragraph, and the Commission may, after hearing, grant such relief to such extent and for such time, and in such manner as in its judgment is consistent with the public interest and the policy declared in section 302 (a) of this chapter.

(b) Complaints and investigations; hearings and orders of commission. Whenever, after hearing upon complaint or its own initiative, the Commission finds that any charge of any contract carrier or carriers by motor vehicle, or any rule, regulation, or practice of any such carrier or carriers affecting such charge, or the value of the service thereunder, for the transportation of passengers or property in interstate or foreign commerce, contravenes the policy declared in section 302 (a) of this chapter, the Commission may prescribe such minimum charge, or such rule, regulation, or practice as in its judgment may be necessary or desirable in the public interest and to promote the policy declared in said section. Such minimum charge, or such rule, regulation, or practice, so prescribed by the Commission, shall give no advantage or preference to any such carrier in competition with any common carrier by motor vehicle subject to this chapter, which the Commission may find to be undue or inconsistent with the public interest and the policy declared in said section, and the Commission shall give due consideration to the cost of the services rendered by such carriers and to the effect of such minimum charge, or such rules, regulations,

or practices, upon the movement of traffic by such carriers. All complaints shall state fully the facts complained of and the reasons for such complaint and shall be made under oath.

(c) Reduction in rates; hearings and orders of commission; suspension. Whenever there shall be filed with the Commission by any such contract carrier any schedule or contract stating a reduced charge directly, or by means of any rule, regulation, or practice, for the transportation of passengers or property in interstate or foreign commerce, the Commission is hereby authorized and empowered upon complaint of interested parties or upon its own initiative at once and, if it so orders, without answer or other formal pleading by the interested party, but upon reasonable notice, to enter upon a hearing concerning the lawfulness of such charge, or such rule, regulation, or practice, and pending such hearing and the decision thereon the Commission, by filing with such schedule or contract and delivering to the carrier affected thereby a statement in writing of its reasons for such suspension, may suspend the operation of such schedule or contract and defer the use of such charge, or such rule, regulation, or practice, for a period of ninety days, and if the proceeding has not been concluded and a final order made within such period the Commission may, from time to time, extend the period of suspension, but not for a longer period in the aggregate than one hundred and eighty days beyond the time when it would otherwise go into effect; and after hearing, whether completed before or after the charge, or rule, regulation, or practice goes into effect, the Commission may make such order with reference thereto as would be proper in a proceeding instituted after it had become effective. If the proceeding has not been concluded and an order made within the period of suspension, the proposed change in any charge or rule, regulation, or practice shall go into effect at the end of such period: *Provided*, That this paragraph shall not apply to any initial schedule or schedules, or contract or contracts, filed by any such carrier in bona fide operation when this section takes effect. (Feb. 4, 1887, c. 104, Part II, § 218, as added Aug. 9, 1935, c. 498, § 1, 49 Stat. 561.)

For effective date of section, see section 327 of this title.

§ 319. Receipts or bills of lading; application of section 20 (11). The provisions of section 20 (11) of this title shall apply with like force and effect to receipts or bills of lading of common carriers by motor vehicle. (Feb. 4, 1887, c. 104, Part II, § 219, as added Aug. 9, 1935, c. 498, § 1, 49 Stat. 563.)

§ 320. Accounts, records and reports—(a) Reports, authority of commission to require; form and contents; contracts affecting transportation, filing. The Commission is hereby authorized to require annual, periodical, or special reports from all motor carriers, to prescribe the manner and form in which such reports shall be made, and to require from such carriers specific answers to all questions upon which the Commission may deem information to be necessary. Such reports shall be under oath whenever the Commission so requires. The Commission may also require any motor carrier to file with it a true copy of each or any contract, agreement, or arrangement between such carrier and any other carrier or person in relation to any traffic affected by the provisions of this chapter, to which he or it may be a party.

(b) Accounts, records, etc.; form and contents; inspection of records and property by Commission or examiners. The Commission may, in its discretion, prescribe the forms of any and all accounts, records, and memoranda to be kept by motor carriers and the length of time such accounts, records, and memoranda shall be preserved, including the accounts, records, and memoranda of the movement of traffic, as well as of the receipts and expenditures of money. The Commission or its duly authorized special agents or examiners shall at all times have access to all lands, buildings, or equipment of motor carriers used in connection with interstate or foreign operation and also all

accounts, records, and memoranda, including all documents, papers, and correspondence now or hereafter existing, and kept, or required to be kept, by motor carriers. The special agents or examiners of the Commission shall have authority under its order to inspect and examine any and all such lands, buildings, equipment, accounts, records, and memoranda, including all documents, papers, and correspondence now or hereafter existing and kept or required to be kept by such carriers. This provision shall apply to receivers of carriers and to operating trustees and, to the extent deemed necessary by the Commission, to persons having control, direct or indirect, over or affiliated with any motor carrier.

(c) "Motor carriers" as including brokers. As used in this section the term "motor carriers" includes brokers. (Feb. 4, 1887, c. 104, Part II, § 220, as added Aug. 9, 1935, c. 498, § 1, 49 Stat. 563.)

§ 321. Orders, notices and service of process—(a) Designation of agent for service of notice or orders; manner of service. It shall be the duty of every motor carrier to file with the board of each State in which it operates under a certificate or permit issued under this chapter, and with the Commission, a designation in writing of the name and post-office address of a person upon whom or which service of notices or orders may be made under this chapter. Such designation may from time to time be changed by like writing similarly filed. Service of notices or orders in proceedings under this chapter may be made upon a motor carrier by personal service upon it or upon the person so designated by it, or by registered mail addressed to it or to such person at the address filed. In default of such designation, service of any notice or order may be made by posting in the office of the secretary or clerk of the board of the State wherein the motor carrier maintains headquarters and in the office of the secretary of the Commission. Whenever notice is given by mail as provided herein the date of mailing shall be considered as the time when notice is served.

(b) Effective date and duration of orders of commission. Except as otherwise provided in this chapter, all orders of the Commission shall take effect within such reasonable time as the Commission may prescribe and shall continue in force until its further order, or for a specified period of time, according as shall be prescribed in the order, unless the same shall be suspended or modified or set aside by the Commission, or be suspended or set aside by a court of competent jurisdiction.

(c) Designation of agent for service of process. Every motor carrier shall also file with the board of each State in which it operates a designation in writing of the name and post-office address of a person in such State upon whom process issued by or under the authority of any court having jurisdiction of the subject matter may be served in any proceeding at law or equity brought against such carrier. Such designation may from time to time be changed by like writing similarly filed. In the event such carrier fails to file such designation, service may be made upon any agent of such motor carrier within such State.

(d) "Motor carriers" as including brokers. As used in this section, the term "motor carriers" includes brokers. (Feb. 4, 1887, c. 104, Part II, § 221, as added Aug. 9, 1935, c. 498, § 1, 49 Stat. 563.)

§ 322. Unlawful operation—(a) Violation of chapter or rules or orders; penalty where none otherwise provided. Any person knowingly and willfully violating any provision of this chapter, or any rule, regulation, requirement, or order thereunder, or any term or condition of any certificate, permit, or license, for which a penalty is not otherwise herein provided, shall, upon conviction thereof, be fined not more than \$100 for the first offense and not more than \$500 for any subsequent offense. Each day of such violation shall constitute a separate offense.

(b) Jurisdiction of district courts to restrain violations and enforce orders. If any motor carrier or

broker operates in violation of any provision of this chapter (except as to the reasonableness of rates, fares, or charges and the discriminatory character thereof), or any rule, regulation, requirement, or order thereunder, or of any term or condition of any certificate or permit, the Commission or its duly authorized agent may apply to the district court of the United States for any district where such motor carrier or broker operates, for the enforcement of such provision of this chapter, or of such rule, regulation, requirement, order, term, or condition; and such court shall have jurisdiction to enforce obedience thereto by a writ of injunction or by other process, mandatory or otherwise, restraining such carrier or broker, his or its officers, agents, employees, and representatives from further violation of such provision of this chapter or of such rule, regulation, requirement, order, term, or condition and enjoining upon it or them obedience thereto.

(c) Participation in unjust discrimination; evasion of regulations; penalty. Any person, whether carrier, shipper, consignee, or broker, or any officer, employee, agent, or representative thereof, who shall knowingly offer, grant, or give, or solicit, accept, or receive any rebate, concession, or discrimination in violation of any provision of this chapter, or who by means of any false statement or representation, or by the use of any false or fictitious bill, bill of lading, receipt, voucher, roll, account, claim, certificate, affidavit, deposition, lease, or bill of sale, or by any other means or device, shall knowingly and willfully assist, suffer or permit any person or persons, natural or artificial, to obtain transportation of passengers or property subject to this chapter for less than the applicable rate, fare, or charge, or who shall knowingly and willfully by any such means or otherwise fraudulently seek to evade or defeat regulation as in this chapter provided for motor carrier or brokers, shall be deemed guilty of a misdemeanor and upon conviction thereof be fined not more than \$500 for the first offense and not more than \$2,000 for any subsequent offense.

(d) Disclosure of information by special agent or examiner; penalty. Any special agent or examiner who divulges any fact or information which may come to his knowledge during the course of the examination of the accounts, records, and memoranda of motor carriers or brokers as provided in section 320 (b), except as he may be directed by the Commission or by a court of competent jurisdiction or judge thereof, shall be subject, upon conviction in any court of the United States of competent jurisdiction, to a fine of not more than \$5,000 or imprisonment for a term not exceeding two years, or both.

(e) Disclosure or solicitation of information concerning property in transportation. It shall be unlawful for any motor carrier or broker engaged in interstate or foreign commerce or any officer, receiver, trustee, lessee, agent, or employee of such carrier, broker, or person, or for any other person authorized by such carrier, broker, or person to receive information, knowingly to disclose to, or permit to be acquired by any person other than the shipper or consignee without the consent of such shipper or consignee, any information concerning the nature, kind, quantity, destination, consignee, or routing of any property tendered or delivered to such motor carrier or broker for such transportation, which information may be used to the detriment or prejudice of such shipper or consignee, or which may improperly disclose his business transactions to a competitor; and it shall also be unlawful for any person to solicit or knowingly receive any such information which may be so used.

(f) Giving information in response to legal process, or to government officers or to other carriers for adjustment of rates permitted. Nothing in this chapter shall be construed to prevent the giving of such information in response to any legal process issued under the authority of any court, or to any officer or agent of the Government of the United States or of any State, Territory, or District thereof, in the exercise of his power, or to any officer or other duly

authorized person seeking such information for the prosecution of persons charged with or suspected of crimes or to another carrier or broker, or its duly authorized agent, for the purpose of adjusting mutual traffic accounts in the ordinary course of business of such carriers or brokers.

(g) **Failure or refusal to make reports or keep accounts and records; altering or making false report or record; penalty.** Any motor carrier, or broker, or any officer, agent, employee, or representative thereof who shall willfully fail or refuse to make a report to the Commission as required by this chapter, or to keep accounts, records, and memoranda in the form and manner approved or prescribed by the Commission, or shall knowingly and willfully falsify, destroy, mutilate, or alter any such report, account, record, or memorandum, or shall knowingly and willfully file any false report, account, record, or memorandum, shall be deemed guilty of a misdemeanor and upon conviction thereof be subject for each offense to a fine of not less than \$100 and not more than \$5,000. (Feb. 4, 1887, c. 104, Part II, § 222, as added Aug. 9, 1935, c. 498, § 1, 49 Stat. 564.)

§ 323. **Collection of rates and charges; extension of credit; liability of agent of beneficial owner.** No common carrier by motor vehicle shall deliver or relinquish possession at destination of any freight transported by it in interstate or foreign commerce until all tariff rates and charges thereon have been paid, except under such rules and regulations as the Commission may from time to time prescribe to govern the settlement of all such rates and charges, including rules and regulations for weekly or monthly settlement, and to prevent unjust discrimination or undue preference or prejudice: *Provided*, That the provisions of this paragraph shall not be construed to prohibit any such carrier from extending credit in connection with rates and charges on freight transported for the United States, for any department, bureau, or agency thereof, or for any State or Territory, or political subdivision thereof, or for the District of Columbia. Where any common carrier by motor vehicle is instructed by a shipper or consignor to deliver property transported by such carrier to a consignee other than the shipper or consignor, such consignee shall not be legally liable for transportation charges in respect of the transportation of such property (beyond those billed against him at the time of delivery for which he is otherwise liable) which may be found to be due after the property has been delivered to him, if the consignee (a) is an agent only and had no beneficial title in the property, and (b) prior to delivery of the property has notified the delivering carrier in writing of the fact of such agency and absence of beneficial title, and, in the case of shipment reconsigned or diverted to a point other than that specified in the original bill of lading, has also notified the delivering carrier in writing of the name and address of the beneficial owner of the property. In such cases the shipper or consignor, or, in the case of a shipment so reconsigned or diverted, the beneficial owner shall be liable for such additional charges, irrespective of any provisions to the contrary in the bill of lading or in the contract under which the shipment was made. If the consignee

has given to the carrier erroneous information as to who is the beneficial owner, such consignee shall himself be liable for such additional charges, notwithstanding the foregoing provisions of this paragraph. On shipments reconsigned or diverted by an agent who has furnished the carrier with a notice of agency and the proper name and address of the beneficial owner, and where such shipments are refused or abandoned at ultimate destination, the said beneficial owner shall be liable for all legally applicable charges in connection therewith. (Feb. 4, 1887, c. 104, Part II, § 223, as added Aug. 9, 1935, c. 498, § 1, 49 Stat. 565.)

§ 324. **Identification plates for interstate motor carriers.** The Commission is hereby authorized, under such rules and regulations as it shall prescribe, to require the display by motor carriers upon each motor vehicle operated under a certificate or permit issued by the Commission, suitable identification plate or plates, to provide for the issuance of such plates, and to require the payment by such carriers of the reasonable cost thereof. All moneys so collected shall be paid into the Treasury of the United States. Any substitution, transfer, or use of any such identification plate or plates, except such as may be duly authorized by the Commission, is hereby prohibited and shall be unlawful. (Feb. 4, 1887, c. 104, Part II, § 224, as added Aug. 9, 1935, c. 498, § 1, 49 Stat. 566.)

§ 325. **Investigation of motor vehicle sizes and weights and qualifications and hours of service of employees.** The Commission is hereby authorized to investigate and report on the need for Federal regulation of the sizes and weight of motor vehicles and combinations of motor vehicles and of the qualifications and maximum hours of service of employees of all motor carriers and private carriers of property by motor vehicle; and in such investigation the Commission shall avail itself of the assistance of all departments or bureaus of the Government and of any organization of motor carriers having special knowledge of any such matter. (Feb. 4, 1887, c. 104, Part II, § 225, as added Aug. 9, 1935, c. 498, § 1, 49 Stat. 566.)

§ 326. **Separability clause.** If any provision of this chapter, or the application thereof to any person, or commerce, or circumstance, is held invalid, the remainder of the chapter, and the application of such provision to other persons, or commerce, or circumstances, shall not be affected thereby. (Feb. 4, 1887, c. 104, Part II, § 226, as added Aug. 9, 1935, c. 498, § 1, 49 Stat. 567.)

§ 327. **Effective date of chapter.** This chapter (except this section, which shall become effective immediately upon approval) shall take effect and be in force on and after the 1st day of October 1935: *Provided, however*, That the Commission shall, if found by it necessary or desirable in the public interest, by general or special order, postpone the taking effect of any provision of this chapter to such time after the 1st day of October 1935, as the Commission shall prescribe, but not beyond the 1st day of April 1936. (Feb. 4, 1887, c. 104, Part II, § 227, as added Aug. 9, 1935, c. 498, § 1, 49 Stat. 567.)



## TITLE 50.—WAR

### Chapter 5.—ARSENALS, ARMORIES, ARMS, AND WAR MATERIAL GENERALLY

§ 62c. **Donation of army equipment to posts of American Legion.** The Secretary of War is authorized and directed to give to each post or camp of organizations composed of honorably discharged soldiers, sailors or marines to which obsolete or condemned Army rifles, slings, or cartridge belts have

been loaned under authority of section 62 of this title, any such equipment now held by such post or camp, and to cancel and release all obligations to the United States incurred pursuant to such section in connection with loans of such equipment to posts or camps of organizations composed of honorably discharged soldiers, sailors or marines (As amended Aug. 30, 1935, c. 826. 49 Stat. 1013 )



# Parallel Reference Tables

## STATUTES INCLUDED OR CITED IN CODE SUPPLEMENT I

Revised Statutes	Supplement I	
	Title	Section
Section 4283A.....	46	183b

Statutes at Large					Supplement I		Statutes at Large					Supplement I	
Date	Chapter	Section	Volume	Page	Title	Section	Date	Chapter	Section	Volume	Page	Title	Section
1887							1920						
Feb. 4.....	104	201	-----	-----	49	301	June 10.....	285	201	-----	-----	16	824
Do.....	104	202	-----	-----	49	302	Do.....	285	202	-----	-----	16	824a
Do.....	104	203	-----	-----	49	303	Do.....	285	203	-----	-----	16	824b
Do.....	104	204	-----	-----	49	304	Do.....	285	204	-----	-----	16	824c
Do.....	104	205	-----	-----	49	305	Do.....	285	205	-----	-----	16	824d
Do.....	104	206	-----	-----	49	306	Do.....	285	206	-----	-----	16	824e
Do.....	104	207	-----	-----	49	307	Do.....	285	207	-----	-----	16	824f
Do.....	104	208	-----	-----	49	308	Do.....	285	208	-----	-----	16	824g
Do.....	104	209	-----	-----	49	309	Do.....	285	209	-----	-----	16	824h
Do.....	104	210	-----	-----	49	310	Do.....	285	301	-----	-----	16	825
Do.....	104	211	-----	-----	49	311	Do.....	285	302	-----	-----	16	825a
Do.....	104	212	-----	-----	49	312	Do.....	285	303	-----	-----	16	825b
Do.....	104	213	-----	-----	49	313	Do.....	285	304	-----	-----	16	825c
Do.....	104	214	-----	-----	49	314	Do.....	285	305	-----	-----	16	825d
Do.....	104	215	-----	-----	49	315	Do.....	285	306	-----	-----	16	825e
Do.....	104	216	-----	-----	49	316	Do.....	285	307	-----	-----	16	825f
Do.....	104	217	-----	-----	49	317	Do.....	285	308	-----	-----	16	825g
Do.....	104	218	-----	-----	49	318	Do.....	285	309	-----	-----	16	825h
Do.....	104	219	-----	-----	49	319	Do.....	285	310	-----	-----	16	825i
Do.....	104	220	-----	-----	49	320	Do.....	285	311	-----	-----	16	825j
Do.....	104	221	-----	-----	49	321	Do.....	285	312	-----	-----	16	825k
Do.....	104	222	-----	-----	49	322	Do.....	285	313	-----	-----	16	825l
Do.....	104	223	-----	-----	49	323	Do.....	285	314	-----	-----	16	825m
Do.....	104	224	-----	-----	49	324	Do.....	285	315	-----	-----	16	825n
Do.....	104	225	-----	-----	49	325	Do.....	285	316	-----	-----	16	825o
Do.....	105	226	-----	-----	49	326	Do.....	285	317	-----	-----	16	825p
Do.....	105	227	-----	-----	49	327	Do.....	285	318	-----	-----	16	825q
1890							Do.....	285	319	-----	-----	16	825r
Aug. 19.....	802	1 (art. 32)	-----	-----	33	142	Do.....	285	320	-----	-----	16	791a
1891							1921						
Mar. 3.....	517	11	26	829	28	228a	July 9.....	42	224	-----	-----	48	715a
Do.....	561	8	26	1099	16	611a	Aug. 15.....	64	501	-----	-----	7	218
1895							Do.....	64	502	-----	-----	7	218a
Jan. 12.....	23	-----	-----	-----	44	215a	Do.....	64	503	-----	-----	7	182, 218b,
Feb. 8.....	64	1 (rule 29)	-----	-----	33	294	Do.....	64	504	-----	-----	7	221, 223
Feb. 19.....	102	1 (rule 27)	-----	-----	33	352	Do.....	64	505	-----	-----	7	218c
1897							Do.....	64	505	-----	-----	7	218d
June 7.....	4	1 (art. 32)	-----	-----	33	232	1923						
1906							Mar. 4.....	262	4	-----	-----	21	64
June 30.....	3934	10	-----	-----	22	198a	1930						
Do.....	3934	11	-----	-----	22	197b	June 18.....	520	1	46	777	16	450b
1913							Do.....	520	2	46	777	16	450c
Dec. 23.....	6	9	-----	-----	12	329a	Do.....	520	3	46	777	16	450d
Do.....	6	10	-----	-----	12	247a	Do.....	520	4	-----	-----	16	450e
Do.....	6	19	-----	-----	12	462a-1	1932						
Do.....	6	21	-----	-----	12	486	July 22.....	522	8a	-----	-----	12	1428a
1916							Do.....	522	10b	-----	-----	12	1430b
June 3.....	134	38	-----	-----	32	81c	1933						
1917							May 12.....	25	8b (8[2])	48	34	7	608b
Sept. 24.....	56	21	-----	-----	31	757b	Do.....	25	8c	-----	-----	7	608c
Do.....	56	22	-----	-----	31	757c	Do.....	25	8d	-----	-----	7	608d
							Do.....	25	8e	-----	-----	7	608e
							Do.....	25	8f (8[5])	48	34	7	608f
							Do.....	25	21	-----	-----	7	622
							Do.....	25	22	-----	-----	7	624
							May 18.....	32	9a	-----	-----	16	831h-1
							Do.....	32	12a	-----	-----	16	831k-1
							Do.....	32	15a	-----	-----	16	831n-1
							Do.....	32	26a	-----	-----	16	831y-1
							Do.....	32	31	-----	-----	16	831dd



Statutes at Large					Supplement I		Statutes at Large					Supplement I	
Date	Chapter	Section	Volume	Page	Title	Section	Date	Chapter	Section	Volume	Page	Title	Section
1934													
Jan. 20	3	3	48	319	15	609bb	Apr. 21	77	3	49	160	28	819
Apr. 7	103	7	48	528	7	608b	Do.	78		49	161	41	21a
May 10	277	121			26	121	Apr. 25	81		49	161	34	217a
June 19	653	7	48	1109	28	870	Do.	81		49	161	34	718
1935													
Jan. 28	1	1	49	1	38	445c	Apr. 27	85	1	49	163	16	590a
Jan. 31	2	1	49	1	15	601b	Do.	85	2	49	163	16	590b
Do.	2	1	49	1	15	603a	Do.	85	3	49	163	16	590c
Do.	2	1	49	1	15	613b	Do.	85	4	49	164	16	590d
Do.	2	2	49	2	15	604b	Do.	85	5	49	164	16	590e
Do.	2	3	49	2	15	605m	Do.	85	6	49	164	16	590f
Do.	2	4	49	2	15	605	May 2	88		49	165	31	385
Do.	2	5	49	3	15	606i	May 3	90		49	174	31	384
Do.	2	6	49	3	15	606a	May 8	101		49	180	43	8
Do.	2	8	49	4	15	605e	Do.	101		49	180	43	90
Do.	2	10	49	4	15	606b	Do.	101		49	186	25	387
Do.	2	11	49	5	15	605f	Do.	101		49	197	43	385
Do.	2	12	49	5	15	606d	Do.	101		49	200	43	46
Do.	2	13	49	5	15	607a	Do.	101		49	205	30	11
Feb. 2	3	1	49	6	3	46	Do.	101		49	206	16	407d
Do.	3	1	49	7	36	135	Do.	101		49	214	24	169
Do.	3	1	49	7	36	122	May 10	102		49	216	29	49d
Do.	3	1	49	7	36	121a	May 14	109		49	218	10	540
Do.	3	1	49	8	5	636	Do.	109		49	218	34	441a
Do.	3	1	49	11	41	6b	Do.	110		49	222	31	529b
Do.	3	16	49	16	19	107	Do.	110		49	224	26	1255
Do.	3	1	49	18	44	111b	Do.	110		49	229	8	117
Do.	4	4	49	19	31	551	Do.	110		49	234	40	109a
Feb. 4	5	1	49	20	31	752	Do.	110		49	234	40	313a
Do.	5	2	49	20	31	754	Do.	110		49	236	39	813
Do.	5	3	49	20	31	754	Do.	110		49	237	39	9
Do.	5	4	49	20	31	753	Do.	110		49	241	39	805
Do.	5	5	49	21	31	757b	Do.	110		49	242	39	809a
Do.	5	6	49	21	31	757c	May 15	114	1	49	246	11	22
Do.	5	7	49	22	6	15	Do.	114	2	49	246	11	202
Feb. 13	6	1	49	22	2	36	Do.	114	3	49	246	11	203
Do.	6	2	49	24	5	673 note	May 17	131		49	248	5	520a
Feb. 21	18		49	30	39	469m	Do.	131		49	249	5	553a
Feb. 22	18	1	49	30	15	715	Do.	131		49	251	7	387
Do.	18	2	49	30	15	715a	Do.	131		49	251	7	419
Do.	18	3	49	31	15	715b	Do.	131		49	254	15	319
Do.	18	4	49	31	15	715c	Do.	131		49	257	7	204
Do.	18	5	49	31	15	715d	Do.	131		49	257	7	231
Do.	18	6	49	32	15	715e	Do.	131		49	257	21	129
Do.	18	7	49	32	15	715f	Do.	131		49	275	7	415a
Do.	18	8	49	32	15	715g	Do.	131		49	275	7	414
Do.	18	9	49	33	15	715h	Do.	131		49	280	5	547
Do.	18	10	49	33	15	715i	Do.	131		49	281	7	619a
Do.	18	11	49	33	15	715j	May 22	135		49	286	43	237c
Do.	18	12	49	33	15	715k	May 23	136		49	287	49	101a
Do.	18	13	49	33	15	715l	May 24	142		49	289	48	5
Mar. 2	21		49	37	16	519a	May 27	148	1	49	292	5	601b
Mar. 18	32	1	49	45	7	609	Do.	148	2	49	293	5	601c
Do.	32	2	49	46	7	609	Do.	148	3	49	293	5	601d
Do.	32	3	49	46	7	609	Do.	149		49	293	19	1201, Par. 1606(c) note
Do.	32	4	49	46	7	609	May 28	150	1	49	293	12	1422
Do.	32	5	49	46	7	609	Do.	150	2	49	293	12	1426(k)
Do.	32	6	49	46	7	609	Do.	150	3	49	294	12	1427
Do.	32	7	49	46	7	608	Do.	150	4	49	294	12	1428a
Do.	32	8	49	47	7	615	Do.	150	5	49	294	12	1430
Do.	32	9	49	48	7	615	Do.	150	6	49	295	12	1430(b)
Do.	32	10	49	48	7	616	Do.	150	7	49	295	12	1430b
Do.	32	11	49	48	7	617	Do.	150	8	49	295	12	1433
Mar. 21	36		49	59	48	1237a	Do.	150	9	49	295	12	1439
Mar. 22	39		49	69	5	188c	Do.	150	10	49	296	12	1462
Do.	39		49	70	34	448a	Do.	150	10	49	296	12	1463
Do.	39		49	70	10	541	Do.	150	11	49	296	12	1463(d)
Do.	39		49	72	34	448b	Do.	150	12	49	296	12	1463(f)
Do.	39		49	73	22	268a	Do.	150	13	49	296	12	1463(g)
Do.	39		49	76	5	169	Do.	150	14	49	297	12	1463(h)
Do.	39		49	83	23	530	Do.	150	15	49	297	12	1463(i)
Do.	39		49	86	5	593	Do.	150	16	49	297	12	1463(j)
Do.	39		49	89	15	189a	Do.	150	17	49	297	12	1463(k)
Do.	39		49	90	15	198	Do.	150	18	49	297	12	1463(l)
Do.	39		49	33	851	851	Do.	150	19	49	297	12	1463(m)
Do.	39		49	41	6a note	6a note	Do.	150	20	49	297	12	1463(n)
Do.	39	3	49	105	28	600a note	Do.	150	21	49	297	12	1463(o)
Apr. 8	48		49	121	15	728 note	Do.	150	22	49	297	12	1464(e)
Apr. 9	54		49	125	37	187	Do.	150	23	49	298	12	1465
Do.	54		49	125	37	9a	Do.	150	24	49	298	12	1467(d)
Do.	54		49	126	10	10a	Do.	150	25	49	298	12	1467(e)
Do.	54		49	126	10	53	Do.	150	26	49	298	12	1467(f)
Do.	54		49	126	10	1431	Do.	150	27	49	298	12	1467(g)
Do.	54		49	136	10	727	Do.	150	28	49	299	12	1722
Do.	54		49	138	10	1161a	Do.	150	29	49	299	12	1729(b)
Do.	54		49	140	10	367	Do.	150	30	49	299	12	1729
Do.	54		49	145	24	290	Do.	150	31	49	299	12	1703
Do.	54		49	147	24	46a	Do.	150	32	49	299	12	1709
Apr. 11	58		49	154	46	883	Do.	150	33	49	300	12	1711
Apr. 15	71	1	49	156	34	861	Do.	150	34	49	300	12	1710(a)
Do.	71	2	49	157	34	861a	Do.	150	35	49	300	12	1716(d)
Do.	71	3	49	157	34	861b	Do.	150	36	49	300	12	1717
Do.	71	4	49	157	34	861c	Do.	150	37	49	300	12	1016
Do.	71	5	49	157	34	861d	Do.	151		49	304	3	62
Do.	71	6	49	157	34	861e	May 31	160		49	313	28	225(a)
Do.	71	7	49	157	34	861f	June 3	164	2(a)	49	313	12	1016(c)
Apr. 19	74		49	158	26	55	Do.	164	2(b)	49	313	12	1016(e)
Apr. 24	77		49	158	28	847	Do.	164	2(c)	49	313	12	1016(f)
Do.	77	2	49	160	28	848	Do.	164	2(d)	49	314	12	1016(g)

Statutes at Large					Supplement I		Statutes at Large					Supplement I	
Date	Chapter	Section	Volume	Page	Title	Section	Date	Chapter	Section	Volume	Page	Title	Section
1935													
June 3.....	164	2(e)	49	314	12	1016(h)	June 25.....	315	3	49	423	16	430v
Do.....	164	3	49	314	12	771	Do.....	315	4	49	424	16	430w
Do.....	161	4	49	315	12	913	Do.....	315	5	49	424	16	430x
Do.....	164	5(a)	49	315	12	1031	June 27.....	319	1	49	424	46	922
Do.....	164	5(b)	49	315	12	1031	Do.....	320	1	49	425	40	22b
Do.....	164	5(c)	49	315	12	1034	Do.....	320	2	49	425	40	22c
Do.....	164	6(a)	49	315	12	1041	June 23.....	327	-----	49	428	18	338a
Do.....	164	6(b)	49	315	12	1044	Do.....	331	1	49	430	28	179
Do.....	164	6(b)	49	315	12	1045	Do.....	331	2	49	430	28	179a
Do.....	164	7	49	316	12	1051	Do.....	333	-----	49	431	26	900-903, note
Do.....	164	8	49	316	12	1095	Do.....	333	-----	49	431	26	940 note
Do.....	164	9	49	316	12	1141e	Do.....	333	-----	49	431	26	ch. 20 note
Do.....	164	10	49	316	12	1141e	Do.....	333	-----	49	431	39	280 note
Do.....	164	11	49	316	12	1141f	Do.....	335	-----	49	435	12	264
Do.....	164	12	49	317	12	1141j(a)	June 21.....	337	-----	49	436	22	4
Do.....	164	13	49	317	12	1134j	Do.....	338	1	49	436	7	427
Do.....	164	14	49	317	12	1134j	Do.....	338	2	49	437	7	427a
Do.....	164	15	49	318	12	1134k	Do.....	338	3	49	437	7	427b
Do.....	164	16	49	318	12	823 note	Do.....	338	4	49	437	7	427c
Do.....	164	17(a)	49	318	12	823 note	Do.....	338	5	49	437	7	427d
Do.....	164	17(b)	49	318	12	823 note	Do.....	338	6	49	438	7	427e
Do.....	164	17(c)	49	318	12	1131j	Do.....	338	7	49	438	7	427f
Do.....	164	18	49	319	12	771	Do.....	338	8	49	438	7	427g
Do.....	164	19	49	319	12	716	Do.....	338	21	49	438	7	343c
Do.....	164	20	49	319	12	745	Do.....	338	22	49	439	7	343d
Do.....	164	21	49	319	12	981	July 2.....	355	-----	49	442	46	883
Do.....	164	22	49	319	12	771	July 5.....	372	1	49	449	29	151
Do.....	164	23	49	320	12	682a	Do.....	372	2	49	450	29	152
June 4.....	167	-----	49	320	10	1178a	Do.....	372	3	49	451	29	153
June 5.....	175	-----	49	323	34	71a	Do.....	372	4	49	451	29	154
Do.....	176	-----	49	324	31	386	Do.....	372	5	49	452	29	155
June 6.....	181	-----	49	326	34	64	Do.....	372	6	49	452	29	156
June 7.....	201	-----	49	332	10	1091b	Do.....	372	7	49	452	29	157
Do.....	203	-----	49	333	39	406	Do.....	372	8	49	452	29	158
June 13.....	221	-----	49	338	16	485 note	Do.....	372	9	49	453	29	159
Do.....	223	-----	49	339	24	281	Do.....	372	10	49	453	29	160
Do.....	224	-----	49	339	37	3a	Do.....	372	11	49	455	29	161
June 14.....	240	-----	49	340	48	1236a	Do.....	372	12	49	456	29	162
Do.....	242	-----	49	374	2	135a	Do.....	372	13	49	457	29	163
Do.....	245	-----	49	375	12	375a	Do.....	372	14	49	457	29	164
Do.....	246	1	49	375	15	702(c)	Do.....	372	15	49	457	29	165
Do.....	246	2	49	375	15	703 note	Do.....	372	16	49	457	29	166
Do.....	246	2	49	375	15	705a	July 8.....	374	1	49	463	2	68a
Do.....	247	1	49	376	49	267a	Do.....	374	1	49	471	40	217a
Do.....	247	2	49	376	49	264a	Do.....	374	1	49	475	44	14
June 15.....	256	-----	49	377	10	1028a	July 10.....	375	1	49	477	16	19
Do.....	257	-----	49	377	10	951b	Do.....	375	2	49	477	16	19a
Do.....	259	1	49	377	23	503	Do.....	375	3	49	478	16	19b
Do.....	259	2	49	378	23	504a	Do.....	375	4	49	478	16	6a
Do.....	260	1	49	378	25	478a	Do.....	375	5	49	478	16	19c
Do.....	260	2	49	378	25	478 note	Do.....	375	6	49	478	16	19d
Do.....	260	3	49	378	25	478 note	Do.....	376	1	49	478	48	1251
Do.....	260	4	49	378	25	478b	Do.....	376	2	49	478	48	1252
Do.....	261	1	49	378	16	718a	Do.....	376	3	49	478	48	1253
Do.....	261	2	49	379	16	718b	Do.....	376	4	49	479	48	1254
Do.....	261	3	49	379	16	718d	Do.....	376	5	49	479	48	1255
Do.....	261	5	49	380	16	718e	Do.....	376	6	49	479	48	1256
Do.....	261	201	49	380	18	392	Do.....	376	7	49	479	48	1257
Do.....	261	201	49	381	18	393	July 15.....	378	1	49	479	48	562a
Do.....	261	201	49	381	18	394	Do.....	378	2	49	480	48	562b
Do.....	261	202	49	381	18	393a	Do.....	378	3	49	480	48	562c
Do.....	261	301	49	381	16	715e	July 16.....	383	-----	49	481	49	11
Do.....	261	302	49	382	16	715d-1	July 17.....	384	-----	49	482	34	396a
Do.....	261	303	49	382	16	715d-2	July 18.....	386	-----	49	482	5	468a
Do.....	261	304	49	382	16	715e-1	July 22.....	402	1	49	487	34	2
Do.....	261	401	49	383	16	715f	Do.....	402	2	49	487	34	4
Do.....	261	501	49	383	16	715d-3	Do.....	402	3	49	488	34	286i
Do.....	261	601	49	384	16	141b	Do.....	402	4	49	488	34	3
Do.....	261	-----	49	384	16	715k-1	Do.....	402	5	49	489	34	286a
June 17.....	267	-----	49	386	44	215a	Do.....	402	6	49	490	34	13
Do.....	268	-----	49	386	43	49	Do.....	402	7	49	490	34	14
June 19.....	277	1	49	391	32	81c	Do.....	402	8	49	490	34	732a
Do.....	277	2	49	391	32	4a	Do.....	402	9	49	490	34	883
Do.....	277	3	49	391	32	123	July 24.....	412	1	49	494	49	61
Do.....	277	4	49	391	32	114	Do.....	412	2	49	494	49	62
Do.....	277	5	49	392	32	172	Do.....	412	3	49	495	49	63
Do.....	277	6	49	392	32	42	Do.....	412	4	49	495	49	64
Do.....	277	7	49	392	32	81	Do.....	413	-----	49	495	28	195
June 20.....	283	1	49	393	16	156	July 25.....	416	1	49	498	5	141
Do.....	283	2	49	393	16	157	Do.....	416	2	49	498	5	142
Do.....	283	3	49	394	16	158	Do.....	416	3	49	498	5	143
Do.....	284	-----	49	394	18	468	Do.....	416	4	49	499	5	144
June 24.....	288	1	49	395	8	392b	Do.....	416	5	49	499	5	145
Do.....	288	2	49	395	8	392c	Do.....	416	6	49	499	5	146
Do.....	288	3	49	395	8	392d	Do.....	416	7	49	500	5	147
Do.....	290	1	49	397	8	392e	Do.....	416	8	49	500	5	148
Do.....	290	2	49	398	8	392f	Do.....	416	9	49	500	5	149
Do.....	290	3	49	398	8	392g	July 26.....	417	1	49	500	44	301
Do.....	291	3	49	421	10	756b	Do.....	417	2	49	500	44	302
Do.....	291	3	49	421	34	896b	Do.....	417	3	49	500	44	303
Do.....	291	3	49	421	42	64b	Do.....	417	4	49	501	44	304
June 25.....	308	-----	49	422	16	486 note	Do.....	417	5	49	501	44	305
Do.....	309	1	49	422	16	129	Do.....	417	6	49	501	44	306
Do.....	309	2	49	422	16	132	Do.....	417	7	49	502	44	307
Do.....	309	3	49	422	16	132a	Do.....	417	8	49	502	44	308
June 26.....	315	1	49	423	16	430t	Do.....	417	9	49	502	44	309
Do.....	315	2	49	423	18	430u	Do.....	417	10	49	503	44	310

Statutes at Large					Supplement		Statutes at Large					Supplement I	
Date	Chapter	Section	Volume	Page	Title	Section	Date	Chapter	Section	Volume	Page	Title	Section
1935													
July 26	417	11	49	503	44	311	Aug. 9	498	1 (214)	49	557	49	314
Do.	417	12	49	503	44	312	Do.	498	1 (215)	49	557	49	315
Do.	417	13	49	503	44	313	Do.	498	1 (216)	49	558	49	316
Do.	417	14	49	503	44	314	Do.	498	1 (217)	49	560	49	317
Do.	418	1	49	503	10	1591a	Do.	498	1 (218)	49	561	49	318
Do.	418	2	49	504	10	1591b	Do.	498	1 (219)	49	563	49	319
Do.	419		49	504	43	256a	Do.	498	1 (220)	49	563	49	320
Do.	420	1	49	504	48	693	Do.	498	1 (221)	49	563	49	321
Do.	420	2	49	505	48	715a	Do.	498	1 (222)	49	564	49	322
Do.	421		49	505	15	605k	Do.	498	1 (223)	49	565	49	323
July 31	422	1	49	505	10	553a	Do.	498	1 (224)	49	566	49	324
Do.	422	2	49	506	10	553b	Do.	498	1 (225)	49	566	49	325
Do.	422	3	49	506	10	552a	Do.	498	1 (226)	49	567	49	326
Do.	422	4	49	506	10	552b	Do.	498	1 (227)	49	567	49	327
Do.	422	5	49	507	10	943a	Do.	504		49	570	7	705
Do.	422	5	49	507	10	971b	Aug. 12	508	2	49	602	25	475a
Do.	422	6	49	507	10	292d	Do.	508	3	49	602	15	728 note
Do.	422	7	49	507	10	1028d	Do.	509		49	607	43	3
Aug. 2	421		49	508	16	485d-1	Do.	510	1	49	607	38	450
Do.	425	1	49	508	28	4e	Do.	510	2	49	609	38	127 note
Do.	425	1	49	508	28	213f	Do.	510	2	49	609	38	556a
Do.	425	2	49	508	28	4f	Do.	510	3	49	609	38	54 note
Do.	425	3	49	508	28	4g	Do.	510	3	49	609	38	454a
Do.	430	1	49	512	22	273	Do.	510	4	49	609	38	450 note
Aug. 3	431	1	49	513	28	572	Do.	510	4	49	609	38	454a note
Do.	431	2	49	513	28	574	Do.	510	4	49	609	38	556a note
Do.	431	3	49	513	28	754	Do.	510	5	49	609	38	450 note
Do.	432		49	513	18	751h	Do.	510	5	49	609	38	454a note
Do.	433		49	511	28	184a	Do.	510	5	49	609	38	556a note
Do.	435		49	516	48	745b	Do.	511	1	49	610	10	1343a
Do.	436	1	49	516	48	562d	Do.	511	2	49	611	10	1343b
Do.	436	2	49	517	48	562e	Do.	511	3	49	611	10	1343c
Aug. 5	438	1	49	517	19	1701	Do.	511	4	49	611	10	1343d
Do.	438	2	49	518	19	1702	Aug. 13	516		49	611	48	745a
Do.	438	3	49	518	19	1703	Do.	520	1 (1)	49	613	16	450b
Do.	438	4	49	519	19	1704	Do.	520	1 (2)	49	613	16	450c
Do.	438	5	49	519	19	1705	Do.	520	1 (3)	49	613	16	450d
Do.	438	6	49	519	19	1706	Do.	520	2	49	614	16	450e
Do.	438	7	49	520	19	1707	Do.	521	1	49	614	38	368
Do.	438	8	49	520	19	1708	Do.	521	2	49	614	38	369
Do.	438	201	49	521	19	1401	Aug. 14	530	1	49	614	39	469a
Do.	438	201	49	521	19	1432a	Do.	530	2	49	615	39	469a
Do.	438	202	49	521	19	1436	Do.	530	3	49	615	39	469a
Do.	438	203	49	521	19	1581	Do.	530	4	49	615	39	469a
Do.	438	204	49	523	19	1584	Do.	530	5	49	616	39	469d
Do.	438	205	49	524	19	1586	Do.	530	6	49	616	39	469d
Do.	438	206	49	525	19	1587	Do.	530	7	49	617	39	469d
Do.	438	207	49	525	19	1615	Do.	530	8	49	617	39	469d
Do.	438	208	49	526	19	483	Do.	530	9	49	617	39	469e
Do.	438	209	49	526	46	91	Do.	530	10	49	618	39	469h
Do.	438	210	49	526	46	288	Do.	530	11	49	618	39	469h
Do.	438	301	49	527	19	1431	Do.	530	12	49	618	39	469m
Do.	438	302	49	527	19	1441	Do.	530	13	49	619	39	469d
Do.	438	303	49	527	19	1585	Do.	531	1	49	620	42	302
Do.	438	304 (a)	49	527	19	1591	Do.	531	2	49	620	42	302
Do.	438	304 (b)	49	527	19	1592	Do.	531	3	49	621	42	302
Do.	438	305	49	527	19	1619	Do.	531	4	49	622	42	304
Do.	438	306	49	527	19	1621	Do.	531	5	49	622	42	305
Do.	438	307	49	528	18	122	Do.	531	6	49	622	42	306
Do.	438	308	49	528	14	64	Do.	531	201	49	622	42	401
Do.	438	309	49	528	19	1601a	Do.	531	202	49	623	42	402
Do.	438	310	49	528	46	60	Do.	531	203	49	623	42	403
Do.	438	311	49	528	46	166	Do.	531	204	49	624	42	404
Do.	438	312	49	528	46	277	Do.	531	205	49	624	42	405
Do.	438	313	49	528	46	325	Do.	531	206	49	624	42	406
Do.	438	314	49	529	46	319	Do.	531	207	49	624	42	407
Do.	438	401	49	529	19	1709	Do.	531	208	49	625	42	408
Do.	438	402	49	529	19	1710	Do.	531	209	49	625	42	409
Do.	438	403	49	529	19	1711	Do.	531	210	49	625	42	410
Do.	439	1	49	530	34	349	Do.	531	301	49	626	42	501
Do.	439	2	49	530	34	349a	Do.	531	302	49	626	42	502
Do.	439	3	49	530	34	349b	Do.	531	303	49	626	42	503
Do.	439	4	49	530	34	349c	Do.	531	401	49	627	42	601
Do.	439	5	49	530	34	349d	Do.	531	402	49	627	42	602
Do.	439	6	49	531	34	349e	Do.	531	403	49	628	42	603
Do.	439	7	49	531	34	349f	Do.	531	404	49	628	42	604
Do.	439	8	49	531	34	349g	Do.	531	405	49	629	42	605
Do.	439	9	49	531	34	349h	Do.	531	406	49	629	42	606
Do.	439	10	49	532	34	349i	Do.	531	501	49	629	42	701
Do.	439	11	49	532	34	348c	Do.	531	502	49	629	42	702
Do.	439	12	49	533	34	349j	Do.	531	503	49	630	42	703
Do.	439	13	49	533	34	349k	Do.	531	504	49	630	42	704
Aug. 7	450		49	538	39	693a	Do.	531	505	49	631	42	705
Do.	452	1	49	538	22	198a	Do.	531	511	49	631	42	711
Do.	452	1	49	539	22	197b	Do.	531	512	49	631	42	712
Do.	454		49	540	22	274	Do.	531	513	49	632	42	713
Aug. 9	498	1	49	543	49	Ch. 1 note	Do.	531	514	49	632	42	714
Do.	498	1 (201)	49	543	49	301	Do.	531	515	49	633	42	715
Do.	498	1 (202)	49	543	49	302	Do.	531	521	49	633	42	721
Do.	498	1 (203)	49	544	49	303	Do.	531	531	49	633	29	45b
Do.	498	1 (204)	49	546	49	304	Do.	531	541	49	634	42	731
Do.	498	1 (205)	49	548	49	305	Do.	531	601	49	634	42	801
Do.	498	1 (206)	49	551	49	306	Do.	531	602	49	634	42	802
Do.	498	1 (207)	49	551	49	307	Do.	531	603	49	635	42	803
Do.	498	1 (208)	49	552	49	308	Do.	531	701	49	635	42	901
Do.	498	1 (209)	49	552	49	309	Do.	531	702	49	636	42	902
Do.	498	1 (210)	49	554	49	310	Do.	531	703	49	636	42	903
Do.	498	1 (211)	49	554	49	311	Do.	531	704	49	636	42	904
Do.	498	1 (212)	49	555	49	312	Do.	531	801	49	636	42	1001
Do.	498	1 (213)	49	555	49	313	Do.	531	802	49	636	42	1002
Do.	498	1 (214)	49	557	15	77c	Do.	531	803	49	637	42	1003

Statutes at Large					Supplement I		Statutes at Large					Supplement I	
Date	Chapter	Section	Volume	Page	Title	Section	Date	Chapter	Section	Volume	Page	Title	Section
1935													
Aug. 14	531	804	49	637	42	1001	Aug. 23	614	203 (b)	49	704	12	242
Do	531	805	49	637	42	1005	Do	614	203 (c)	49	705	12	244
Do	531	806	49	637	42	1006	Do	614	203 (d)	49	705	12	247a
Do	531	807	49	637	42	1007	Do	614	204	49	705	12	347b
Do	531	808	49	638	42	1008	Do	614	205	49	705	12	263
Do	531	809	49	638	42	1009	Do	614	206 (a)	49	706	12	355
Do	531	810	49	638	42	1010	Do	614	206 (b)	49	706	12	357
Do	531	811	49	639	42	1011	Do	614	207	49	706	12	462b
Do	531	901	49	639	42	1101	Do	614	208	49	706	12	371
Do	531	902	49	639	42	1102	Do	614	209	49	707	12	2
Do	521	903	49	640	42	1103	Do	614	301	49	707	12	221b
Do	531	904	49	640	42	1104	Do	614	302	49	707	12	377
Do	531	905	49	641	42	1105	Do	614	303	49	707	12	378
Do	531	906	49	642	42	1106	Do	614	304	49	708	12	64a
Do	531	907	49	642	42	1107	Do	614	305	49	708	12	38
Do	531	908	49	643	42	1108	Do	614	306	49	708	12	71a
Do	531	909	49	643	42	1109	Do	614	307	49	709	12	78
Do	531	910	49	644	42	1110	Do	614	308	49	709	12	24
Do	531	1001	49	645	42	1201	Do	614	309	49	709	12	51
Do	531	1002	49	645	42	1202	Do	614	310 (a)	49	710	12	52
Do	531	1003	49	646	42	1203	Do	614	310 (b)	49	710	12	336
Do	531	1004	49	646	42	1204	Do	614	311	49	710	12	61
Do	531	1005	49	647	42	1205	Do	614	312	49	711	12	35
Do	531	1006	49	647	42	1206	Do	614	313	49	711	12	170
Do	531	1101	49	647	42	1301	Do	614	314	49	711	12	85
Do	531	1102	49	647	42	1302	Do	614	315	49	712	12	60
Do	531	1103	49	648	42	1303	Do	614	316	49	712	12	592
Do	531	1104	49	648	42	1304	Do	614	317	49	712	12	181
Do	531	1105	49	648	42	1305	Do	614	318	49	712	12	583
Do	532	1 (501)	49	648	7	218	Do	614	319 (a)	49	713	12	287
Do	532	1 (502)	49	648	7	218a	Do	614	319 (b)	49	713	12	288
Do	532	1 (503)	49	649	7	192	Do	614	320	49	713	12	324
Do	532	1 (503)	49	649	7	218b	Do	614	321 (a)	49	713	12	248
Do	532	1 (503)	49	649	7	221	Do	614	321 (b)	49	713	12	84
Do	532	1 (503)	49	649	7	223	Do	614	322	49	714	12	343
Do	532	1 (504)	49	649	7	218c	Do	614	323	49	714	12	352a
Do	532	1 (505)	49	649	7	218d	Do	614	324 (a)	49	714	12	461
Do	535	1	49	650	39	832	Do	614	324 (b)	49	714	12	465
Do	535	2	49	651	39	833	Do	614	324 (c)	49	714	12	371a
Aug. 15	517	1	49	652	16	450f	Do	614	324 (c)	49	714	12	371b
Do	547	2	49	652	16	450g	Do	614	324 (d)	49	715	12	462a-1
Do	547	3	49	652	16	450h	Do	614	325	49	715	12	486
Do	547	4	49	652	16	450i	Do	614	326 (a)	49	715	12	593
Do	547	5	49	653	16	450j	Do	614	326 (b)	49	716	12	594
Do	547	6	49	653	16	450k	Do	614	326 (c)	49	716	12	375a
Do	548	1	49	653	5	556b	Do	614	327	49	717	12	371c
Aug. 19	558	1	49	659	28	1h	Do	614	328	49	717	12	371
Do	560	1	49	659	43	237c	Do	614	329	49	717	15	19
Aug. 20	575	1	49	661	16	430y	Do	614	329	49	717	12	619
Do	575	2	49	661	16	430z	Do	614	330	49	718	12	33
Do	575	3	49	662	16	430z-1	Do	614	331	49	719	12	34a
Do	575	4	49	662	16	430z-2	Do	614	332	49	719	12	585
Do	575	5	49	662	16	430z-3	Do	614	332	49	720	12	587
Do	577	1	49	664	11	207	Do	614	333	49	720	12	588a
Do	578	1	49	664	19	611a	Do	614	334	49	720	12	59
Aug. 21	591	1	49	665	16	450l	Do	614	335	49	720	12	52
Do	592	1	49	665	16	450m	Do	614	336	49	720	12	51a
Do	592	2	49	666	16	450n	Do	614	338	49	721	12	321
Do	593	1	49	666	16	461	Do	614	339	49	721	12	192
Do	593	2	49	666	16	462	Do	614	340	49	721	11	101
Do	593	3	49	667	16	463	Do	614	341	49	721	39	758
Do	593	4	49	668	16	464	Do	614	342	49	722	12	248
Do	593	5	49	668	16	465	Do	614	343	49	722	12	481
Do	593	6	49	668	16	466	Do	614	344	49	722	12	482
Do	593	7	49	668	16	467	Do	614	344 (a)	49	722	12	1702
Do	595	1	49	668	33	142	Do	614	344 (b)	49	722	12	1703
Do	595	2	49	669	33	203	Do	614	344 (c)	49	722	12	1709
Do	595	2	49	669	33	222	Do	614	344 (d)	49	722	12	1713
Do	595	3	49	669	33	294	Do	614	345	49	722	12	51b-1
Do	595	4	49	669	33	352	Do	614	346	49	723	12	228 note
Do	595	5	49	669	33	142 note	Do	616	346	49	724	38	483a
Do	595	5	49	669	33	203 note	Do	617	1	49	724	5	673
Do	595	5	49	669	33	232 note	Do	621	1	49	729	38	706
Do	595	5	49	669	33	292 note	Do	621	2	49	729	38	612
Do	595	5	49	669	33	352 note	Do	621	2	49	729	38	621
Do	597	1	49	670	33	503	Do	621	3	49	729	38	664
Do	597	2	49	671	33	504	Do	621	4	49	730	38	662
Do	597	3	49	671	33	505	Do	621	5	49	730	38	622
Do	597	4	49	671	33	506	Do	623	1	49	731	7	622 note
Do	597	5	49	672	33	507	Do	623	2	49	731	7	511a
Do	599	1	49	673	30	221	Do	623	3	49	732	7	511b
Do	599	1	49	676	30	223	Do	623	4	49	732	7	511c
Do	599	1	49	676	30	226	Do	623	5	49	732	7	511d
Do	599	1	49	678	30	185	Do	623	6	49	732	7	511e
Do	599	2	49	679	30	233a	Do	623	7	49	733	7	511f
Do	599	3	49	679	30	236a	Do	623	8	49	733	7	511g
Do	600	1	49	679	2	92b	Do	623	9	49	733	7	511h
Do	600	2	49	680	2	92c	Do	623	10	49	733	7	511i
Do	600	3	49	680	2	92d	Do	623	11	49	734	7	511j
Aug. 22	602	1	49	680	45	80	Do	623	12	49	734	7	511k
Do	603	1	49	680	28	150	Do	623	13	49	734	7	511l
Do	603	2	49	681	28	150	Do	623	14	49	734	7	511m
Do	603	3	49	681	28	150	Do	623	15	49	735	7	511n
Do	606	1	49	682	28	149a	Do	623	16	49	735	7	511o
Aug. 23	614	1	49	684	12	223	Do	623	17	49	735	7	511p
Do	614	101	49	684	12	264	Do	623	18	49	735	7	511q
Do	614	201	49	703	12	341	Do	623	18	49	744	39	488
Do	614	202	49	704	12	329a	Aug. 24	638	1	49	750	7	602
Do	614	203 (b)	49	704	12	241	Do	641	1	49			

Statutes at Large					Supplement I		Statutes at Large					Supplement I	
Date	Chapter	Section	Volume	Page	Title	Section	Date	Chapter	Section	Volume	Page	Title	Section
1935													
Aug. 24	641	2	49	751	7	608	Aug. 24	642	2	49	794	40	270b
Do	641	3	49	753	7	612	Do	612	3	49	794	40	270c
Do	641	4	49	753	7	608b	Do	612	4	49	794	40	270d
Do	641	5	49	753	7	608c	Do	642	5	49	794	40	270a-270d
Do	641	6	49	761	7	608d							note
Do	641	6	49	761	7	608e	Do	643		49	795	39	116
Do	641	7	49	762	7	608f	Do	646	1	49	796	15	606j
Do	641	8	49	762	7	608a	Do	616	2	49	798	15	606k
Do	641	9	49	762	7	608a	Aug. 26	684		49	800	40	345b
Do	641	10	49	762	7	608a	Do	685		49	801	7	610
Do	641	11	49	762	7	609	Do	687	1	49	803	15	79a
Do	641	12	49	763	7	609	Do	687	2	49	804	15	79b
Do	641	13	49	766	7	609	Do	687	3	49	810	15	79c
Do	641	14	49	766	7	609	Do	687	4	49	812	15	79d
Do	641	15	49	767	7	609	Do	687	5	49	812	15	79e
Do	641	16	49	767	7	610	Do	687	6	49	814	15	79f
Do	641	17	49	767	7	610	Do	687	7	49	815	15	79g
Do	641	18	49	767	7	610	Do	687	8	49	817	15	79h
Do	641	19	49	768	7	612	Do	687	9	49	817	15	79i
Do	641	20	49	768	7	613	Do	687	10	49	818	15	79j
Do	641	20	49	768	7	616	Do	687	11	49	820	15	79k
Do	641	21	49	768	7	615	Do	687	12	49	823	15	79l
Do	641	22	49	768	7	615	Do	687	13	49	825	15	79m
Do	641	23	49	768	7	615	Do	687	14	49	827	15	79n
Do	641	24	49	768	7	615	Do	687	15	49	828	15	79o
Do	641	25	49	768	7	616	Do	687	16	49	829	15	79p
Do	641	26	49	769	7	616	Do	687	17	49	830	15	79q
Do	641	27	49	769	7	616	Do	687	18	49	831	15	79r
Do	641	28	49	770	7	617	Do	687	19	49	832	15	79s
Do	641	29	49	770	7	623	Do	687	20	49	833	15	79t
Do	641	30	49	770	7	624	Do	687	21	49	834	15	79u
Do	641	31	49	773	7	612c	Do	687	22	49	834	15	79v
Do	641	32	49	774	7	607	Do	687	23	49	834	15	79w
Do	641	33	49	775	7	604	Do	687	24	49	834	15	79x
Do	641	35	49	775	7	604	Do	687	25	49	835	15	79y
Do	641	36	49	775	7	604	Do	687	26	49	835	15	79z
Do	641	37	49	775	7	612b	Do	687	27	49	836	15	79z-1
Do	641	38	49	776	7	608 note	Do	687	28	49	836	15	79z-2
Do	641	39 (a)	49	776	7	702	Do	687	29	49	836	15	79z-3
Do	641	39 (b)	49	777	7	703	Do	687	30	49	837	15	79z-4
Do	641	39 (c)	49	777	7	705	Do	687	31	49	837	15	79z-5
Do	641	39 (d)	49	777	7	703a	Do	687	32	49	837	15	79z-6
Do	641	39 (e)	49	777	7	707	Do	687	33	49	838	15	79
Do	641	40	49	777	7	717	Do	687	201	49	838	16	796
Do	641	41	49	778	7	709	Do	687	202	49	839	16	797
Do	641	42	49	778	7	704	Do	687	203	49	841	16	798
Do	641	44	49	778	7	751	Do	687	204	49	841	16	799
Do	641	45	49	778	7	752	Do	687	205	49	842	16	800
Do	641	46	49	778	7	753	Do	687	206	49	842	16	803
Do	641	47	49	779	7	755	Do	687	207	49	844	16	807
Do	641	48	49	779	7	755	Do	687	208	49	845	16	810
Do	641	49	49	779	7	755	Do	687	209	49	845	16	811
Do	641	50	49	780	7	758	Do	687	210	49	846	16	816
Do	641	51	49	780	7	759	Do	687	210	49	846	16	817
Do	641	52	49	780	7	760	Do	687	211	49	846	16	818
Do	641	53	49	780	7	761	Do	687	212	49	847	16	ch. 12 note
Do	641	54	49	780	7	764	Do	687	212	49	847	16	797 note
Do	641	55	49	781	15	728 note	Do	687	213 (201)	49	847	16	824
Do	641	56	49	781	7	851	Do	687	213 (202)	49	848	16	824a
Do	641	57	49	781	7	852	Do	687	213 (203)	49	849	16	824b
Do	641	58	49	781	7	853	Do	687	213 (204)	49	850	16	824c
Do	641	59	49	781	7	854	Do	687	213 (205)	49	851	16	824d
Do	641	60	49	782	7	855	Do	687	213 (206)	49	852	16	824e
Do	641	61	49	782	7	611	Do	687	213 (207)	49	853	16	824f
Do	641	62	49	782	7	602	Do	687	213 (208)	49	853	16	824g
Do	641	201	49	782	7	801	Do	687	213 (209)	49	853	16	824h
Do	641	202	49	783	7	802	Do	687	213 (301)	49	854	16	825
Do	641	203	49	784	7	803	Do	687	213 (302)	49	855	16	825a
Do	641	204	49	784	7	804	Do	687	213 (303)	49	855	16	825b
Do	641	204a	49	785	7	804a	Do	687	213 (304)	49	855	16	825c
Do	641	205	49	785	7	805	Do	687	213 (305)	49	856	16	825d
Do	641	206	49	785	7	806	Do	687	213 (306)	49	856	16	825e
Do	641	207	49	786	7	807	Do	687	213 (307)	49	856	16	825f
Do	641	208	49	786	7	808	Do	687	213 (308)	49	858	16	825g
Do	641	209	49	786	7	809	Do	687	213 (309)	49	858	16	825h
Do	641	210	49	787	7	810	Do	687	213 (310)	49	859	16	825i
Do	641	211	49	787	7	811	Do	687	213 (311)	49	859	16	825j
Do	641	212	49	788	7	812	Do	687	213 (312)	49	859	16	825k
Do	641	213	49	788	7	813	Do	687	213 (313)	49	860	16	825l
Do	641	214	49	788	7	814	Do	687	213 (314)	49	861	16	825m
Do	641	215	49	788	7	815	Do	687	213 (315)	49	861	16	825n
Do	641	216	49	789	7	816	Do	687	213 (316)	49	862	16	825o
Do	641	217	49	789	7	817	Do	687	213 (317)	49	862	16	825p
Do	641	218	49	790	7	818	Do	687	213 (318)	49	863	16	825q
Do	641	219	49	790	7	819	Do	687	213 (319)	49	863	16	825r
Do	641	220	49	790	7	820	Do	687	213 (320)	49	863	16	791a
Do	641	221	49	790	7	821	Do	689	3	49	864	19	1641
Do	641	222	49	791	7	822	Do	689	4	49	864	19	1641
Do	641	223	49	791	7	823	Do	689	5	49	865	19	1641
Do	641	224	49	791	7	824	Do	692		49	866	13	349a
Do	641	225	49	791	7	825	Do	693		49	867	18	317
Do	641	226	49	791	7	826	Do	694		49	867	18	320
Do	641	227	49	791	7	827	Do	695		49	867	39	246c
Do	641	228	49	792	7	828	Do	696		49	868	31	382 note
Do	641	229	49	792	7	829	Do	697	1	49	868	46	178
Do	641	230	49	792	7	830	Do	697	2	49	869	46	179
Do	641	231	49	792	7	831	Do	697	3	49	869	46	178, 179 note
Do	641	232	49	793	7	832	Do	698	1	49	869	38	704a
Do	641	233	49	793	7	833	Do	698	2	49	869	38	724
Do	642	1	49	793	40	270a							

Statutes at Large					Supplement I		Statutes at Large					Supplement I	
Date	Chapter	Section	Volume	Page	Title	Section	Date	Chapter	Section	Volume	Page	Title	Section
1935							1935						
Aug. 27	739		49	871	21	14a	Aug. 29	812	9	49	973	45	223
Do.	740	1	49	872	27	167	Do.	812	10	49	973	45	224
Do.	740	2	49	873	27	151	Do.	812	11	49	973	45	225
Do.	740	2	49	872	27	164	Do.	812	12	49	973	45	226
Do.	740	3	49	872	27	152	Do.	812	13	49	973	45	227
Do.	740	4	49	873	27	153	Do.	812	14	49	973	45	228
Do.	740	5	49	873	27	154	Do.	812	15	49	974	42	410a
Do.	740	6	49	873	27	155	Do.	813	1	49	974	45	241
Do.	740	7	49	874	27	156	Do.	813	2	49	975	45	242
Do.	740	8	49	874	27	157	Do.	813	3	49	975	45	243
Do.	740	9	49	875	27	158	Do.	813	4	49	975	45	244
Do.	740	10	49	875	27	159	Do.	813	5	49	975	45	245
Do.	740	11	49	875	27	160	Do.	813	6	49	975	45	246
Do.	740	12	49	875	27	161	Do.	813	7	49	975	45	247
Do.	740	13	49	875	27	162	Do.	813	8	49	976	45	248
Do.	740	14	49	876	27	163	Do.	813	9	49	976	45	249
Do.	740	15	49	876	27	165	Do.	813	10	49	976	45	250
Do.	740	16	49	876	27	166	Do.	813	11	49	976	45	251
Do.	740	17	49	876	27	73	Do.	813	12	49	976	45	252
Do.	740	18	49	876	27	81	Do.	813	13	49	977	45	253
Do.	740	201	49	877	18	53a	Do.	814	1	49	977	27	201
Do.	740	201	49	877	18	77a	Do.	814	2	49	977	27	202
Do.	740	202 (b)	49	877	27	122	Do.	814	3	49	978	27	203
Do.	740	204	49	878	27	40a	Do.	814	4	49	978	27	204
Do.	740	301	49	879	40	304f	Do.	814	5	49	981	27	205
Do.	740	302	49	879	40	304g	Do.	814	6	49	985	27	206
Do.	740	303	49	879	40	304h	Do.	814	7	49	985	27	207
Do.	740	304	49	880	40	304i	Do.	814	8	49	986	27	208
Do.	740	305	49	880	40	304j	Do.	814	9	49	987	27	209
Do.	740	306	49	880	40	304k	Do.	814	10	49	987	27	210
Do.	740	307	49	880	40	304l	Do.	814	11	49	987	26	1310
Do.	740	308	49	880	40	304m	Do.	814	12	49	988	26	1301
Do.	743		49	885	21	64	Do.	814	13	49	988	26	1309
Do.	744	1	49	885	40	304a	Do.	814	14	49	988	26	1302
Do.	744	2	49	886	40	304b	Do.	814	15	49	988	26	1176
Do.	744	3	49	886	40	304c	Do.	814	16	49	989	26	1250
Do.	744	4	49	886	40	304d	Do.	814	16	49	989	26	1255
Do.	744	5	49	886	40	304e	Do.	814	17	49	989	27	211
Do.	747	1	49	888	46	88	Do.	815		49	990	41	24
Do.	747	2	49	888	46	88a	Do.	816		49	991	41	24a
Do.	747	3	49	888	46	88b	Aug. 30	824	1	49	991	15	861
Do.	747	4	49	889	46	88c	Do.	824	1	49	992	15	862
Do.	747	5	49	889	46	88d	Do.	824	2	49	992	15	863
Do.	747	6	49	889	46	88e	Do.	824	3	49	993	15	864
Do.	747	7	49	889	46	88f	Do.	824	4	49	994	15	865
Do.	747	8	49	890	46	88g	Do.	824	4	49	994	15	866
Do.	747	9	49	891	46	88h	Do.	824	4	49	995	15	867
Do.	747	9	49	891	46	88i	Do.	824	4	49	1001	15	868
Do.	748	1	49	891	25	305	Do.	824	5	49	1001	15	869
Do.	748	2	49	891	25	305a	Do.	824	6	49	1003	15	810
Do.	748	3	49	892	25	305b	Do.	824	6	49	1005	15	811
Do.	748	4	49	892	25	305c	Do.	824	8	49	1005	15	812
Do.	748	5	49	892	25	305d	Do.	824	9	49	1005	15	813
Do.	748	6	49	893	25	305e	Do.	824	10	49	1005	15	814
Do.	749	1	49	893	7	501	Do.	824	11	49	1006	15	815
Do.	749	2	49	894	7	502	Do.	824	12	49	1006	15	816
Do.	749	3	49	894	7	505	Do.	824	13	49	1006	15	817
Do.	749	4	49	894	7	501 note	Do.	824	14	49	1006	15	818
Do.						502 note	Do.	824	15	49	1007	15	819
Do.	755	2	49	897	16	450r	Do.	824	16	49	1007	15	820
Do.	755	3	49	897	16	450s	Do.	824	17	49	1007	15	821
Do.	755	4	49	897	16	450t	Do.	824	18	49	1007	15	822
Do.	759		49	904	39	101	Do.	824	19	49	1007	15	823
Do.	767	1	49	908	26	116	Do.	824	20	49	1008	15	824
Do.	767	2	49	908	26	116 note	Do.	824	21	49	1008	15	825
Do.	767	3	49	908	26	121	Do.	824	22	49	1008	15	826
Do.	770		49	909	43	256b	Do.	824	23	49	1008	15	827
Do.	774		49	911	11	205	Do.	825	1	49	1011	40	276a
Do.	780	1	49	938	31	773a	Do.	825	2	49	1012	40	276a-1
Do.	780	2	49	939	31	773b	Do.	825	3	49	1012	40	276a-2
Do.	780	3	49	939	31	773c	Do.	825	4	49	1012	40	276a-3
Do.	780	4	49	939	31	773d	Do.	825	5	49	1013	40	276a-4
Aug. 28	791		49	941	5	715c	Do.	825	6	49	1013	40	276a-5
Do.	792	1-6	49	942	11	203	Do.	825	7	49	1013	40	276a-6
Do.	793		49	945	28	4i	Do.	826		49	1013	50	62c
Do.	795	1	49	956	5	652a	Do.	829	101	49	1014	26	12
Do.	795	2	49	957	5	652a	Do.	829	102(a)	49	1015	26	13
Do.	795	3	49	957	44	280a	Do.	829	102(b)	49	1015	26	141
Do.	795	4	49	957	44	280a	Do.	829	102(c)	49	1016	26	23
Aug. 29	801	1	49	958	16	450p	Do.	829	102(d)	49	1016	26	204
Do.	801	2	49	958	16	450p	Do.	829	102(e)	49	1016	26	232
Do.	801	3	49	958	16	450q	Do.	829	102(f)	49	1016	26	144
Do.	802		49	958	49	153	Do.	829	102(g)	49	1016	26	143
Do.	803		49	959	34	12	Do.	829	102(h)	49	1016	26	23
Do.	804	1	49	960	46	183	Do.	829	102(i)	49	1016	26	144
Do.	804	2	49	960	46	183a	Do.	829	103	49	1017	26	201
Do.	804	3	49	960	46	183b	Do.	829	104	49	1017	26	204
Do.	808	1	49	963	16	567a	Do.	829	105	49	1017	26	1358a
Do.	808	2	49	963	16	567b	Do.	829	106	49	1019	26	342
Do.	808	3	49	965	16	567c	Do.	829	107	49	1019	26	12 note
Do.	809		49	965	11	207	Do.	829	107	49	1019	26	13 note
Do.	810		49	966	48	697 note	Do.	829	107	49	1019	26	23 note
Do.	812	1	49	967	45	215	Do.	829	107	49	1019	26	141 note
Do.	812	2	49	968	45	216	Do.	829	107	49	1019	26	201 note
Do.	812	3	49	969	45	217	Do.	829	107	49	1019	26	204 note
Do.	812	4	49	969	45	218	Do.	829	107	49	1019	26	232 note
Do.	812	5	49	970	45	219	Do.	829	108	49	1019	26	261
Do.	812	6	49	970	45	220	Do.	829	109	49	1020	26	331
Do.	812	7	49	971	45	221	Do.	829	110	49	1020	26	112
Do.	812	8	49	972	45	222	Do.	829	201(a)	49	1021	26	535

Statutes at Large					Supplement I		Statutes at Large					Supplement I	
Date	Chapter	Section	Volume	Page	Title	Section	Date	Chapter	Section	Volume	Page	Title	Section
1935													
Aug. 30.....	829	201(b)	49	1022	26	535	Aug. 30.....	831	7	49	1048	33	558a
Do.....	829	201(c)	49	1022	26	537	Do.....	831	8	49	1048	33	570
Do.....	829	201(d)	49	1022	26	535 note	Do.....	831	13	49	1049	28	250a
Do.....	829	201(d)	49	1022	26	537 note	Aug. 31.....	836	1	49	1075	16	831c
Do.....	829	202	49	1022	26	411	Do.....	836	2	49	1075	16	831c
Do.....	829	203(a)	49	1023	26	422	Do.....	836	3	49	1076	16	831c
Do.....	829	203(b)	49	1023	26	490	Do.....	836	4	49	1076	16	831d
Do.....	829	203(c)	49	1023	26	422 note	Do.....	836	5	49	1076	16	831h-1
Do.....	829	203(c)	49	1023	26	490 note	Do.....	836	6	49	1076	16	831i
Do.....	829	301(a)	49	1023	26	551	Do.....	836	7	49	1076	16	831k-1
Do.....	829	301(b)	49	1025	26	554	Do.....	836	8	49	1077	16	831m
Do.....	829	301(c)	49	1025	26	551 note	Do.....	836	9	49	1078	16	831n-1
Do.....	829	301(c)	49	1025	26	554 note	Do.....	836	10	49	1079	16	831y
Do.....	829	401	49	1025	26	ch. 20	Do.....	836	11	49	1079	16	831y-1
Do.....	829	402	49	1026	26	note	Do.....	836	12	49	1080	16	831dd
Do.....	829	403	49	1026	26	999b	Do.....	836	13	49	1080	16	831c
Do.....	829	404	49	1027	26	1395a	Do.....	836	14	49	1080	16	831h
Do.....	829	405	49	1027	28	1693a	Do.....	836	15	49	1081	16	831cc
Do.....	829	406	49	1027	26	400	Do.....	837	1	49	1081	22	245a
Do.....	829	407	49	1027	26	1525	Do.....	837	2	49	1082	22	245b
Do.....	829	407	49	1027	26	1355	Do.....	837	3	49	1083	22	245c
Do.....	829	407	49	1027	26	1356	Do.....	837	4	49	1083	22	245d
Do.....	829	501	49	1027	26	1696	Do.....	837	5	49	1084	22	245e
Do.....	829	502	49	1028	26	1699	Do.....	837	6	49	1084	22	245f
Do.....	830	1	49	1028	10	369a	Do.....	837	7	49	1084	22	245g
Do.....	830	2	49	1028	10	487a	Do.....	837	8	49	1084	22	245h
Do.....	831	5	49	1048	33	546a	Do.....	837	9	49	1085	22	245i

EXECUTIVE ORDERS

Supplement I

No.	Title	Section	No.	Title	Section
6621	5	132, note	6990	38	ch. 12, note
6963	38	ch. 12	6991	38	ch. 12, note
6967	38	ch. 12	6992	38	ch. 12, note
6389	38	ch. 12	7077	5	132, note



# TABLE OF STATUTES REPEALED

[January 3, 1935, to August 26, 1935]

Statutes repealed		Code		Repealed by act of—			
Revised Statutes (section)		Title	Section	Date	Chapter	Section	Volume Page
510.....				1935, Aug. 28.....	795	5	49 957
1790.....		19	49	1935, Aug. 26.....	689	1	49 864
4747.....		38	54	1935, Aug. 12.....	510	3	49 609
4783.....		38	127	do.....	510	2	49 609

Statutes repealed					Code		Repealed by act of—				
Date	Chapter	Section	Volume	Page	Title	Section	Date	Chapter	Section	Volume	Page
1891, Feb. 10.....	130		26	748	38	127	1935, Aug. 12.....	510	2	49	609
1894, Aug. 13.....	280		28	278	40	270	1935, Aug. 24.....	642	5	49	794
1906, June 29.....	3592	4 (8)	25		8	376	1935, June 15.....	255	1	49	376
1913, Dec. 23.....	6		38	273	12	605	1935, Aug. 23.....	614	329	49	717
1914, Oct. 15.....	323	8a			15	19a	do.....	614	329	49	717
1916, July 17.....	245	202 (d)			12	1034	1935, June 3.....	164	5 (c)	49	315
1917, May 18.....	15		40	76	50	226 note	1935, Aug. 27.....	740	203	49	878
1918, May 9.....	69		40	544	8	376	1935, June 15.....	255	1	49	376
1919, Feb. 26.....	50	1, 2	40	1183	28	1 2	1935, Aug. 19.....	558		49	659
1919, Oct. 28.....	85	1	41	305			1935, Aug. 27.....	740	1	49	872
Do.....	85	1	41	307	27	4	do.....	740	1	49	872
Do.....	85	1	41	308	27	5	do.....	740	1	49	872
Do.....	85	2	41	306			do.....	740	1	49	872
Do.....	85	2	41	308	27	11	do.....	740	1	49	872
Do.....	85	3	41	306			do.....	740	1	49	872
Do.....	85	3	41	308	27	12	do.....	740	1	49	872
Do.....	85	4	41	306			do.....	740	1	49	872
Do.....	85	4	41	309	27	13	do.....	740	1	49	872
Do.....	85	5	41	307			do.....	740	1	49	872
Do.....	85	5	41	309	27	14	do.....	740	1	49	872
Do.....	85	6	41	307			do.....	740	1	49	872
Do.....	85	6	41	310	27	16	do.....	740	1	49	872
Do.....	85	7	41	307			do.....	740	1	49	872
Do.....	85	7	41	311	27	17	do.....		1	49	872
Do.....	85	8	41	311	27	19	do.....	740	1	49	872
Do.....	85	9	41	311	27	21	do.....	740	1	49	872
Do.....	85	10	41	312	27	22	do.....	740	1	49	872
Do.....	85	11	41	312	27	23	do.....	740	1	49	872
Do.....	85	12	41	312	27	24	do.....	740	1	49	872
Do.....	85	13	41	312	27	25	do.....	740	1	49	872
Do.....	85	14	41	312	27	26	do.....	740	1	49	872
Do.....	85	15	41	313	27	27	do.....	740	1	49	872
Do.....	85	16	41	313	27	28	do.....	740	1	49	872
Do.....	85	17	41	313	18	341	do.....	740	1	49	872
Do.....	85	17	41	313	27	29	do.....	740	1	49	872
Do.....	85	18	41	313	27	30	do.....	740	1	49	872
Do.....	85	19	41	313	27	31	do.....	740	1	49	872
Do.....	85	20	41	313	27	32	do.....	740	1	49	872
Do.....	85	21	41	314	27	33	do.....	740	1	49	872
Do.....	85	22	41	314	27	34	do.....	740	1	49	872
Do.....	85	23	41	314	27	35	do.....	740	1	49	872
Do.....	85	23	41	314	27	36	do.....	740	1	49	872
Do.....	85	23	41	314	27	37	do.....	740	1	49	872
Do.....	85	24	41	315	27	38	do.....	740	1	49	872
Do.....	85	25	41	315	27	39	do.....	740	1	49	872
Do.....	85	26	41	315	27	40	do.....	740	1	49	872
Do.....	85	29	41	316	27	44	do.....	740	1	49	872
Do.....	85	28	41	316	27	45	do.....	740	1	49	872
Do.....	85	29	41	316	27	46	do.....	740	1	49	872
Do.....	85	30	41	317	27	47	do.....	740	1	49	872
Do.....	85	31	41	317	27	48	do.....	740	1	49	872
Do.....	85	32	41	317	27	49	do.....	740	1	49	872
Do.....	85	33	41	317	27	50	do.....	740	1	49	872
Do.....	85	34	41	317	27	51	do.....	740	1	49	872
Do.....	85	35	41	317	27	52	do.....	740	1	49	872
Do.....	85	34	41	317	27	55	do.....	740	1	49	872
Do.....	85	36	41	318	27	64	do.....	740	1	49	872
Do.....	85	37	41	318	27	57	do.....	740	1	49	872
Do.....	85	37	41	318	27	58	do.....	740	1	49	872
Do.....	85	37	41	318	27	59	do.....	740	1	49	872
Do.....	85	37	41	318	27	60	do.....	740	1	49	872
1919, Oct. 27.....	85	37	41	319	27	61	do.....	740	1	49	872
1919, Oct. 28.....	85	38	41	319	27	62	do.....	740	1	49	872
Do.....	85	39	41	319	27	62	do.....	740	1	49	872
1920, June 10.....	285	26	41	1076	16	819	1935, Aug. 26.....	687	212	49	847
Do.....	285	30	41	1077	16	791	do.....	687	212	49	847
1921, Nov. 23.....	134	1	42	222	18	77	1935, Aug. 27.....	740	1	49	872
Do.....	134	1	42	222	27	4	do.....	740	1	49	872
Do.....	134	2	42	222	27	15	do.....	740	1	49	872
Do.....	134	2	42	222	27	18	do.....	740	1	49	872
Do.....	134	2	42	222	27	20	do.....	740	1	49	872
Do.....	134	2	42	222	27	56	do.....	740	1	49	872
Do.....	134	3	42	223	27	2	do.....	740	1	49	872
Do.....	134	3	42	223	48	562	do.....	740	1	49	872
1921, Nov. 21.....	134	5	42	223	27	3	do.....	740	1	49	872

<sup>1</sup> Part.

Statutes Repealed					Code		Repealed by act of—				
Date	Chapter	Section	Volume	Page	Title	Section	Date	Chapter	Section	Volume	Page
1921, Nov. 23.....	134	5	42	223	27	53	1935, Aug. 27.....	740	1	49	872
Do.....	134	5	42	223	27	54	do.....	740	1	49	872
Do.....	131	6	42	223	18	53	do.....	740	1	49	872
Do.....	134	6	42	223	18	77	do.....	740	1	49	872
1923, Mar. 4.....	252	2	42	1456	12	1034	1935, June 3.....	164	5(c)	49	315
1924, June 7.....	320	22	43	613	38	454	1935, Aug. 12.....	510	3	49	609
1925, Mar. 8.....	421	2	43	1105	13	3	1935, Aug. 28.....	795	5	49	957
Do.....	421	2	43	1105	44	280	do.....	795	5	49	957
Do.....	438	1	43	1116	27	41	1935, Aug. 27.....	740	308(a)	49	880
Do.....	438	1	43	1116	19	522	do.....	740	308(a)	49	880
Do.....	438	2	43	1116	19	523	do.....	740	308(a)	49	880
Do.....	438	2	43	1116	27	42	do.....	740	308(a)	49	880
Do.....	438	3	43	1116	27	43	do.....	740	308(a)	49	880
Do.....	438	3	43	1116	19	524	do.....	740	308(a)	49	880
1925, Mar. 4.....	553	20	43	1312	38	556	1935, Aug. 12.....	510	2	49	609
1926, June 10.....	529	10	44	720	34	3481	1935, Aug. 5.....	439	10	49	532
1930, May 27.....	342	1	46	427	27	101	1935, Aug. 27.....	740	1	49	872
Do.....	342	2	46	427	27	102	do.....	740	1	49	872
Do.....	342	3	46	428	27	103	do.....	740	1	49	872
Do.....	342	4	46	428	27	104	do.....	740	1	49	872
Do.....	342	5	46	429	27	105	do.....	740	1	49	872
Do.....	342	6	46	429	27	106	do.....	740	1	49	872
Do.....	342	7	46	429	27	107	do.....	740	1	49	872
Do.....	342	8	46	420	26	35b	do.....	740	1	49	872
Do.....	342	8	46	430	26	35c	do.....	740	1	49	872
Do.....	342	8	46	430	26	35d	do.....	740	1	49	872
Do.....	342	8	46	430	27	108	do.....	740	1	49	872
Do.....	342	9	48	430	27	42	do.....	740	1	49	872
Do.....	342	10	46	430	27	42	do.....	740	1	49	872
1930, June 17.....	497	641(e)	46	759	19	1641(c)	1935, Aug. 26.....	689	5	49	865
1930, July 3.....	863	1	46	1016	38	54	1935, Aug. 12.....	510	3	49	609
1933, Mar. 20.....	3	16	48	11	38	716	do.....	510	2	49	609
1933, Mar. 22.....	4	1(a)	48	16	26	506(c)	1935, Aug. 27.....	740	202(a)	49	877
Do.....	4	1(b)	48	16	26	1394(c)	do.....	740	202(a)	49	877
Do.....	4	1(c)	48	16	27	1398(c)	do.....	740	202(a)	49	877
Do.....	4	3(a)(b)	48	17	27	64a	do.....	740	202(a)	49	877
Do.....	4	3(c)	48	17	27	64b	do.....	740	202(a)	49	877
Do.....	4	4(a)(b)(1)	48	17	27	64c	do.....	740	202(a)	49	877
Do.....	4	4(b)(2)	48	18	27	64d	do.....	740	202(a)	49	877
Do.....	4	4(b)(3)	48	18	27	64e	do.....	740	202(a)	49	877
Do.....	4	4(b)(4)	48	18	27	64f	do.....	740	202(a)	49	877
Do.....	4	4(c)	48	18	27	64g	do.....	740	202(a)	49	877
Do.....	4	4(d)	48	19	27	64h	do.....	740	202(a)	49	877
Do.....	4	5	48	19	27	64i	do.....	740	202(a)	49	877
Do.....	4	6	48	19	27	64j	do.....	740	202(a)	49	877
Do.....	4	7	48	19	27	64k	do.....	740	202(a)	49	877
Do.....	4	8	48	19	27	64l	do.....	740	202(a)	49	877
Do.....	4	9	48	19	27	64n	do.....	740	202(a)	49	877
Do.....	4	10	48	20	27	64o	do.....	740	202(a)	49	877
1933, Mar. 31.....	18	1	48	23	27	17	do.....	740	1	49	877
Do.....	18	1	48	23	27	17	do.....	740	1	49	877
Do.....	18	2	48	24	27	19	do.....	740	1	49	877
Do.....	18	3	48	24	27	18	do.....	740	1	49	877
Do.....	18	4	48	24	27	105	do.....	740	1	49	877
1933, May 12.....	25	6	48	33	7	606	1935, Aug. 24.....	641	34	49	775
1934, Mar. 16.....	71	4	48	451	16	718d(c)	1935, June 15.....	261	1	49	378
1934, Apr. 27.....	168	9	48	646	12	1463b	1935, May 28.....	150	17(b)	49	297
1934, May 16.....	290	1	48	777	48	1697	1935, Aug. 29.....	810	1	49	966
1935, May 28.....	155	3	49	305	-----	-----	1935, Aug. 27.....	754	3	49	896

1 Part.

# INDEX

[References are to Title and Section of the Code]

## Accounts and Accounting

- Motor carriers, failure or refusal to keep, 49 § 322
- To interstate commerce commission, 49 § 320

## Ackia Battleground National Monument

- Administration, protection and development, 6 § 450t
- Appropriation, 16 § 450s
- Establishment, 16 § 450r

## Actions and Proceedings

- Agricultural adjustment act, actions relating to tax, 7 § 623

## Adulterated Butter

- Process tax, 26 § 999b

## Advisory Board

- National parks, historic sites, buildings, and monuments, 16 § 463

## Agents

- Agricultural adjustment act, handler's share of expenses of authority or agency, 7 § 610 (b)
- Liability of principal for acts of agent, vessel affecting limitation of liability of owner for loss of life or personal injuries, 46 § 183a
- Tobacco inspection
  - Agent's act as act of principal, 7 § 511i
  - Designation by Secretary of Agriculture, 7 § 511p

## Agricultural Adjustment Act

- Actions relating to tax
  - Application of sections 1672-1673 of title 26, 7 § 623 (g)
  - Confidential nature of information obtained by Commissioner of Internal Revenue, 7 § 623 (e)
  - Declaratory judgments forbidden, 7 § 623 (a)
  - District court's jurisdiction, 7 § 623 (d)
  - Examination of records and witnesses, 7 § 623 (e)
  - Limitations, 7 § 623 (d)
  - Passing tax to vendee or others as barring recovery or refund 7 § 623 (d)
  - Restraining collection of tax forbidden, 7 § 623 (a)
- Additional investigations, 7 § 608 (4)
- Agreements for adjustment of acreage or production, 7 § 608 (2)
- Base periods, determination, 7 § 608e
- Commodity in which payments made, 7 § 608 (6)
- Cooperation with state authorities, 7 § 610 (i)
- Cotton tax, time for payment, 7 § 619a
- Dairy and beef cattle, appropriation for elimination of diseases, 7 § 612 (b)
- Exportation and domestic consumption of agricultural products, appropriation to encourage, 7 § 612 (c)
- Handler's share of expenses of authority or agency, 7 § 610 (b)
- Hearings and notice of investigations, 7 § 608 (5)
- Investigations and proclamation of findings, 7 § 608 (1)
- Legalization of prior taxes, 7 § 623 (b)
- Legalization of rental and benefit payments, agreements, and programs, 7 § 623 (c)
- Marketing agreements
  - Authority of Secretary of Agriculture to make exemptions from antitrust laws, 7 § 708b
  - Books and records of parties, 7 § 608d
  - Termination, 7 § 608c (16)
- Nonperishable commodity, advancement of payments on, 7 § 608 (9)
- Orders for handling commodities
  - Commodities to which applicable, 7 § 608c (2)
  - Cooperative associations' approval as approval of producers, 7 § 608c (12)
  - Court review of rulings of Secretary of Agriculture, 7 § 608c (15)
  - Exemption of retailer and producer, 7 § 608c (13)
  - Findings and issuance, 7 § 608c (4)
  - Fruits and other miscellaneous commodities, 7 § 608c (6)
  - Issuance by Secretary of Agriculture, 7 § 608c (1)
  - Marketing agreement, 7 § 608c (8)
  - Orders with or without, 7 § 608c (9)
  - Milk and its products, 7 § 608c (5)
  - Modification, petition for, 7 § 608c (15)
  - Notice and hearing, 7 § 608c (3)
  - Penalty for violation, 7 § 608c (14)
  - Provisions of section applicable to amendments, 7 § 608c (17)
  - Regional application, 7 § 608c (11)
  - Regulation and applicability, 7 § 608c (10)
  - Termination, 7 § 608c (16)
  - Terms common to all orders, 7 § 608c (7)

## Agricultural Adjustment Act—Continued

- Payments by secretary, 7 § 608 (3)
- President's authority to limit imports, 7 § 624
- Reconstruction finance corporations, loans for carrying out marketing agreements, 7 § 608b
- Refund in case tax held invalid, 7 § 623 (d)
- Refunds, time of filing claims, 7 § 623 (f)
- Rice pledged by producer for production, credit of rental or benefit payments, 7 § 608 (8)
- Sugar beets or sugar cane, additional payments to producers, 7 § 608 (7)
- Suspension of exercise of powers, 7 § 608 (4)
- Warehousemen, surrender of goods without receipt, 7 § 608f

## Agricultural and Mechanical Colleges

- Appropriation to aid
  - Additional endowment, 7 § 843d

## Agricultural Experiment Stations

- Researches, 7 § 427a

## Agriculture

- Poultry dealers. Poultry, this index
- Research into basic laws and principles authorized, 7 § 427
- "Special research fund, Department of Agriculture", creation, 7 § 427c

## Air Service

- Army
  - Acquisition of land for stations and depots, 10 § 1343b
  - Appropriation for stations and depots, 10 § 1343d
  - Bombing and machine gun ranges, 10 § 1343c
  - Buildings and equipment, 10 § 1343c
  - Officers, promotion, 10 § 292d
  - Stations and depots, 10 § 1343a
- Navy, tactical and gunnery observers, number detailed to duty, 34 § 732a

## Alaska

- Commissioners
  - Commissioners as commissioners of U S court, 48 § 101a
- District court
  - Court as a court of the United States, 48 § 101a

## Alcohol

- Federal alcohol administration
  - Abolishment of Federal Alcohol Control Administration, 27 § 210
  - Administrator, appointment and compensation, 27 § 202
  - Bulk sales and bottling, 27 § 206
  - Compromise of liability, 27 § 207
  - Definitions, 27 § 211
  - Disposal of forfeited beverages, 27 § 209
  - Establishment of department, 27 § 202
  - Interlocking directorates, 27 § 208
  - Jurisdiction of proceedings, 27 § 207
  - Penalties, 27 § 207
  - Permit
    - Application, duration and revocation, 27 § 204
    - Necessity for, 27 § 203
  - Separability of law, 27 § 211
  - Title of act, 27 § 201
  - Unfair competition and unlawful practices, 27 § 205

## Aliens

- Filipinos, emigration from United States provided for, 48 §§ 1251-1257
- Income tax
  - Certificate of compliance with income, war profits, and excess profit tax laws, on departure from United States, 26 § 146 (e)

## American Battle Monuments Commission

- Delegation of authority, 36 § 121a

## American Legion

- Donation of army equipment to posts, 50 § 62c

## Andrew Johnson Homestead National Monument

- Acquisition of property, 16 § 450p
- Administration, protection, and development, 16 § 450q
- Authorization for, 16 § 450o
- Donations, 16 § 450p

## Animals

- Diseases, appropriation under agricultural adjustment act for elimination, 7 § 612 (b)

- Anti-Hog-Cholera Serum and Hog-Cholera Virus**, see Swine, this index
- Anti-Smuggling Act**  
 Aircraft, 19 § 1706  
 Boarding vessels, 19 § 1701  
 Customs enforcement area, 19 § 1701  
 Definitions, 19 § 1709  
 Destruction of forfeited vessel, 19 § 1705  
 Foreign government, smuggling into, 19 § 1702  
 Immunity of collectors, 19 § 1704  
 Labels as evidence of foreign origin of merchandise, 19 § 1706  
 Liquor  
   Certificate and bond, 19 § 1707  
   Lading vessel in foreign port, 19 § 1708  
 Revocation of registry as evidence of smuggling, 19 § 1704  
 Seizure and forfeiture of vessels, 19 § 1703  
 Separability of law, 19 § 1710  
 Title, 19 § 1711  
 Treaty provisions, 19 § 1701  
 Vessels under thirty tons, 19 § 1706
- Appeal and Error**  
 Appellate procedure in force March 3, 1891, continued for circuit court of appeals, 28 § 228a
- Appraisal**  
 Judicial sales, 28 § 847
- Appropriations**  
 Agricultural adjustment act.  
   Encouragement of exportation and domestic consumption of agricultural products, 7 § 612 (c)  
   For elimination of diseases of cattle, 7 § 612 (b)  
 Tobacco inspection act, 7 § 511m
- Arbitration**  
 Bituminous coal industry, 15 § 808
- Army**  
 Allowances  
   Transportation  
     "Permanent change of station" defined, 10 § 756b  
 Chaplains, rank, pay, and allowances, 10 § 552b  
 Details of officers  
   Foreign service of Department of State, 10 § 541  
 Eagle Pass Military Reservation, sale of, 10 § 1594a  
 Inspector General  
   Traveling expenses of expert accountant, 10 § 53  
 Officers  
   Official register compiled by Civil Service Commission not to contain unless assigned as administrative officer, 5 § 652a  
   Reserve officers commissioned in regular army, 10 § 487a  
 Ordinance, donation of obsolete army equipment to American Legion posts, 50 § 62c  
 Promotion of officers  
   Air corps, 10 § 292d  
   Nonpromotion-list officers, 10 § 552b  
   Number of promotion-list officers, 10 § 553b  
   Peace-time promotions, 10 § 552a  
   Promotion list, 10 § 553a  
 Reserve forces, active duty, officers in combatment arms and chemical warfare service, 10 § 369a  
 Retirement of officers  
   Computation of service for voluntary retirement, 10 § 971b  
   Naval and Marine Corps service included in computing dates of retirement, 10 § 951b  
   Pay on voluntary retirement, 10 § 971b  
   Retired officer acting as professor of military science in high schools of Washington, 10 § 1178a  
   Voluntary application, 10 § 943a  
 Surplus real property, sale of and disposition of proceeds, 10 § 1594a
- Assignments**  
 Federal old-age benefits, 42 § 408
- Attorneys at Law**  
 Interstate Commerce Commission, employment under Motor Carrier Act, 49 § 305 (k)
- Aviation Cadets**  
 Marine Corps Reserve, this index  
 Naval Reserve, this index
- Baby Bonds**, see Public Debt
- Baggage**  
 Motor carriers, transportation with passengers, 49 § 308 (d)
- Banks and Banking**  
 Banking Act of 1935  
 Short title, 12 § 228
- Banks for Cooperatives**  
 Officers  
   Disqualification on conviction of felony or court award for damages for fraud, 12 § 682a
- Barley**  
 Process tax, 7 § 609 (b)
- Bids**  
 Public contracts, subject to codes of fair competition, 40 § 34
- Big Bend National Park**  
 Acceptance of title to lands, 16 § 157  
 Administration, protection, and development, 16 § 158  
 Establishment, 16 § 156
- Bills of Lading**  
 Motor carriers, 49 § 319
- Bituminous Coal**  
 Bituminous coal code, duty to formulate and contents, 15 § 805  
 Bituminous coal labor board, 15 § 808  
 Drawback of tax paid, 15 § 804  
 Interstate commerce, production and distribution of as affecting, 15 § 802  
 National Bituminous Coal Commission, 15 § 803  
 Production, marketing, and use  
   Appropriations for administration of law, 15 § 826  
   Arbitration of labor disputes, 15 § 808  
   Code, provision for, 15 § 809  
   Collective bargaining, 15 § 813  
   Complaints respecting excessive prices, 15 § 821  
   Complaints respecting rates and practices, 15 § 822  
   Contracts within act, 15 § 816  
   Coordination of minimum prices, rules, and regulations, 15 § 807  
   Declaration of policy, 15 § 801  
   Definitions, 15 § 823  
   District boards, 15 § 806  
   Duration of law, 15 § 825  
   Effective date of law, 15 § 824  
   Government purchase from producer not complying with code forbidden, 15 § 818  
   Internal revenue laws, application of, 15 § 811  
   Investigations and hearings, 15 § 812  
   Labor disputes, 15 § 808  
   Marketing agencies, 15 § 806  
   Marketing agencies operating without approval, 15 § 817  
   Minimum and maximum prices, 15 § 807  
   Nonmembership under code, 15 § 813  
   Publication of information received from producers, 15 § 814  
   Reports from producer, 15 § 814  
   Review of rules and regulations, 15 § 810  
   Sales and distribution, rules and regulations for, 15 § 807  
   Separability of provisions of act, relating to, 15 § 819  
   Short title of act, 15 § 827  
   State law, 15 § 815  
   Studies and investigations by Commission, 15 § 820  
   Unfair methods of competition, 15 § 807  
 Tax on, 15 § 804
- Bituminous Coal Code**, see Bituminous Coal, this index
- Bituminous Coal Conservation Act**, see Bituminous Coal, this index
- Bituminous Coal Labor Board**, see Bituminous Coal, this index
- Blind Persons**  
 Grants to states for aid to Social Security Act, this index
- Board**  
 Administration under Motor Carrier Act, 49 § 305  
 Central statistical board,  
   Annual reports to committee and to President, 5 § 145  
   Appointment and compensation, 5 § 143  
   Appointment of own employees, 5 § 144  
   Appropriation authorized, 5 § 144  
   Board created by executive order terminated and records, property, and employees transferred to, 5 § 146  
   Composition, 5 § 143  
   Created, 5 § 141  
   Duration of law, 5 § 149  
   Powers and duties, 5 § 145  
   Purchase of supplies or service in amounts less than \$50, 5 § 144  
   Rules and regulations, 5 § 147  
   Separability clause, 5 § 148
- Bonds**  
 Hawaii,  
   Issuance of public-improvement bonds, 48 § 562e  
   Issuance of revenue bonds, 48 § 562d  
   Ratification of issuance of revenue bonds, 48 § 562d  
 Motor carriers, security for protection of public, 49 § 315  
 Motor transportation brokers, 49 § 311  
 Puerto Rico  
   Public-improvement bonds sold to United States excluded from public indebtedness, 48 § 745a  
   Refunding bonds excluded temporarily in computing indebtedness, 48 § 745b
- Botanic Garden**  
 Plant material exchanges authorized, 40 § 217a
- Brokers**  
 Motor transportation brokers, Motor Carriers, this index
- Bureau of Customs**  
 Advances for, laws governing, 31 § 529b

**Capital Stock Tax**

- Interest, 26 § 1358a
- Rate after June 30, 1935, 26 § 1358a
- Returns, 26 § 1358a

**Carlsbad Caverns National Park**

- Admission and guide fees exempt from tax, 16 § 407d

**Carriers**

- Definitions,
  - Carrier, 45 § 241
  - Compensation, 45 § 241
  - Employee, 45 § 241
- Employees, income tax on, 45 § 242
  - Collection and payment, 45 § 243
  - Deduction from wages, 45 § 243
  - Effective date of law, 45 § 241
  - Jurisdiction of courts, 45 § 249
  - Penalties, 45 § 250
  - Refunds and deficiencies, 45 § 246
  - Representatives of employees, 45 § 247
  - Termination of tax, 45 § 252
- Excise tax, 45 § 244
  - Adjustment of tax, 45 § 245
  - Collection and payment, 45 § 248
  - Jurisdiction of courts, 45 § 249
  - Penalties, 45 § 250
  - Refunds and deficiencies, 45 § 246
  - Termination, 45 § 252
- Income and excise tax, separability of law, 45 § 253
- See Motor carriers, this index

**Central Bank for Cooperatives**

- Officers,
  - Disqualification on conviction of felony or court award for damages for fraud, 12 § 682a

**Certificate of Public Convenience and Necessity**

- Motor carriers, 49 §§ 306-308
- Revocation or suspension, 49 § 312

**Charges**

- Charges of transportation motor carriers, 49 § 316

**Children**

- Dependent, grants to states for aid to. Social Security Act, this index

**Chinese Relief Expedition**

- Pensions, restoration of, 38 § 368

**Cigar Wrapper Tobacco**

- Defined, 7 § 751 (m)

**Circuit Courts of Appeals**

- Additional judges, Ninth Judicial Circuit, 28 § 213f
- Appellate practice
  - Procedure in force March 3, 1891, continued for circuit court of appeals, 28 § 228a

**Civil Service**

- Central statistical board, employees, 5 § 144
- Classification of positions, charwomen, compensation for holidays, 5 § 673

**Civil Service Commission**

- Central statistical board, prescribing tests for employees on termination of board created by executive order, 5 § 146
- Official register compiled, 5 § 652a

**Classification**

- Motor carriers under Motor Carrier Act, 49 § 304 (c)

**Clerk of House of Representatives**

- Death of member, clerical assistants to perform duties under direction of clerk, 2 § 92c

**Coastwise Trade**

- Load line of vessels, this index

**Coins and Coinage**

- Commemorative Coins, this index

**Collective Bargaining**

- Bituminous coal industry, 15 § 808

**Collector**

- Defined, 7 § 801 (c)

**Commemorative Coins**

- Cabeza de Vaca Expedition, silver fifty-cent pieces in commemoration of four hundredth anniversary, 31 § 386
- California-Pacific International Expedition, 31 § 384
- Hudson, New York, silver fifty-cent pieces commemorating one hundred and fiftieth anniversary of founding, 31 § 385
- Providence, Rhode Island, silver fifty-cent pieces commemorating three-hundredth anniversary of founding, 31 § 385

**Commissioner**

- Potato Act, defined, 7 § 801 (b)

**Commissioner of Internal Revenue**

- Agricultural adjustment act,
  - Establishment of claims for recovery of tax, 7 § 623 (e)
  - Requiring return of persons handling or dealing in commodities, 7 § 619 (d)

**Commissioner of Internal Revenue—Continued**

- Definition in Potato Act, 7 § 801 (b)
- Potato Act, rules and regulations, 7 § 812

**Compensation**

- Central statistical board, 5 § 143
- Charwomen on holidays, 5 § 673
- Hawaiian Home Commission, sanitation and reclamation expert, 48 § 715a

**Comptroller of Currency**

- Federal deposit insurance corporation, certificate authorizing business, 12 § 264 (e)

**Consolidation**

- Motor carriers, 49 § 313

**Contraband Oil**

- See Petroleum Products

**Contract Carriers**

- Permits, terms and conditions, 49 § 309 (b)
- Schedules filed with commission, 49 § 318

**Contractor's Bond**

- Public buildings or works,
  - Definitions, 40 § 270drk
  - Requirement, 40 § 270a
  - Rights of laborers or materialmen, 40 §§ 270b, 270c
  - Suit on bond, 40 § 270b
- Waiver of bonds covering contract performed in foreign country, 40 § 270a

**Contracts**

- Agricultural adjustment act,
  - Acreage adjustment, 7a § 608 (2)
  - Marketing agreements, exemption from anti-trust laws, 7 § 608b
- Contract carriers under motor carriers act, 49 § 309

**Conventions**

- Use of public money for expenses forbidden, 31 § 551

**Convict Made Goods**

- Jurisdiction of prosecution for shipment for use in violation of local law, 49 § 64
- Marking packages for shipment in interstate commerce, 49 § 62
- Penalties for shipment for use in violation of local law, 49 § 63
- Prohibition against shipping for use in violation of local law, 49 § 61

**Cooperative Marketing**

- Agricultural adjustment act, approval of orders for handling commodities as approval of producers, 7 § 608c (12)

**Cotton**

- Processing tax, 7 § 619a

**Cotton Marketing**

- Allotment, legalization and ratification by Secretary of Agriculture, 7 § 703 (a)
- Officers and employees, additional expenses, 7 § 717 (b)

**Court of Claims**

- Jurisdiction, claims arising out of dredging operations, 28 § 250a

**Courts**

- Interstate commerce commission
  - Compelling to take jurisdiction under Motor Carrier Act, 49 § 305 (h)
  - Review of orders under Motor Carriers Act, 49 § 305 (h)

**Crater Lake National Park**

- Salary of commissioner while residing outside park, 16 § 132a

**Crimes and Offenses**

- Impersonating Federal officer and making arrest or search, 18 § 77a
- Tobacco inspection act, 7 § 511i

**Crippled Children, see Social Security Act, this index****Customs Duties**

- Adding unlawful importation, penalty, 19 § 483
- Definitions, 19 § 1401
- Entry of vessels, visit to hovering vessel, 19 § 1482a
- Manila and other fiber, regulation of importation from Philippine Islands, 48 § 1236a
- Smuggling, Anti-Smuggling Act, this index
- Uniform or badge, wearing while violating revenue laws, 19 § 1601a

**Dairy and Beef Cattle**

- Agricultural adjustment act, appropriation for elimination of diseases, 7 § 612 (b)

**Declaratory Judgment**

- Agricultural adjustment act, forbidding, 7 § 623 (a)

**Definitions**

- Acquire, 15 § 79b (22)
- Acquisition, 15 § 79b (22)
- Administrator, federal alcohol administration, 27 § 211
- Affiliate, 15 § 79b (11); 27 § 211
- Age, 45 § 215

## nitions—Continued

Agency, 40 § 304f; 44 § 304  
 Aid to dependent children, 42 § 606  
 Aid to the blind, 42 § 1206  
 Allotment year, Potato Act, 7 § 801 (e)  
 Annuity, 45 § 215  
 Application, 27 § 151  
 Articles, Liquor Law Repeal and Enforcement Act, 27 § 151  
 Associate company, 15 § 79b (10)  
 Auction market, 7 § 511  
 Board, 22 § 245b; 45 § 215  
   Joint board, Motor Carrier Act, 49 § 303  
 Board of directors, 12 § 264 (c)  
 Bond, Liquor Law Repeal and Enforcement Act, 27 § 151  
 Bottle, 27 § 211  
 Branch, 12 § 264 (c)  
 Broker, Motor Carrier Act, 49 § 303  
 Buy, 15 § 79b (22)  
 Carrier, 45 § 215, 241  
 Certificate, 49 § 303  
 Change and reform of potatoes, Potato Act, 7 § 801 (f)  
 Cigar wrapper tobacco, 7 § 751 (m)  
 Coastwise voyage by sea, 46 § 88  
 Collector, Potato Act, 7 § 801 (c)  
 Commerce, tobacco inspection act, 7 § 511  
 Commission  
   Motor Carrier Act, 49 § 303  
   Public Utility Holding Company Act, 15 § 79b (6)  
 Commissioner  
   Liquor Law Repeal and Enforcement Act, 27 § 151  
   Potato Act, 7 § 801 (b)  
 Common carrier by motor vehicle, 49 § 303  
 Company, 15 § 79b (2)  
 Compensation, 45 § 215  
 Construction contract, 15 § 79b (21)  
 Continental United States, Potato Act, 7 § 801 (k)  
 Contract carrier by motor vehicle, 49 § 303  
 Corporation, Social Security Act, 42 § 1301  
 Customs waters, 19 § 1401  
   Anti-Smuggling Act, 19 § 1709  
 Dependent child, 42 § 606  
 Deposit, 12 § 264 (c)  
 Director, 15 § 79b (15); 40 § 304f  
 Distilled spirits, 27 § 211  
 District bank, 12 § 264 (c)  
 Document, 44 § 304  
 Effective date, 45 § 215  
 Electric energy, 16 § 824  
 Electric utility company, 15 § 79b (3)  
 Employee, 42 § 1301; 45 § 215  
 Employer, 42 § 1107  
 Employment, 42 § 1011; 42 § 1107  
   Social Security Act, 42 § 410, 410a  
 Enactment, 45 § 215  
 Express company, 49 § 303  
 Farm, Potato Act, 7 § 801 (m)  
 Federal agency, 40 § 304e, 44 § 304  
 Gas utility company, 15 § 79b (4)  
 Gold clause, 31 § 773d  
 Guaranteed employment account, 42 § 1110  
 Highway, Motor Carrier Act, 49 § 303  
 Holding company, 15 § 79b (7)  
 Holding company system, 15 § 79b (9)  
 Hovering vessel, 19 § 1401  
   Anti-Smuggling Act, 19 § 1709  
 Includes, 42 § 1301  
 Including, 42 § 1301  
 Inspector, 7 § 511  
 Insured bank, 12 § 264 (c)  
 Insured deposit, 12 § 264 (c)  
 Integrated public-utility system, 15 § 79b (29)  
 Interstate commerce, 15 § 79b (28)  
 Interstate or foreign commerce, 27 § 211  
 Investment securities, 12 § 24 (7)  
 License, 49 § 303  
 Live-poultry dealer, 7 § 218b  
 Malt beverage, 27 § 211  
 Member company, 15 § 79b (14)  
 Member of House, 2 § 92d  
 Motor carrier, 49 § 303  
 Motor vehicle, Motor Carrier Act, 49 § 303  
 Mutual savings bank, 12 § 264 (c)  
 Mutual service company, 15 § 79b (13)  
 National member bank, 12 § 264 (c)  
 National nonmember bank, 12 § 264 (c)  
 New bank, 12 § 264 (c)  
 Obligation, agricultural adjustment act, 7 § 604  
 Officer of customs, 19 § 1401  
   Anti-Smuggling Act, 19 § 1709  
 Old-age assistance, 42 § 308  
 Operator, Potato Act, 7 § 801 (1)  
 Permit, Motor Carrier Act, 49 § 303  
 Person  
   Contractor's bond, 40 § 270c  
   Federal alcohol administration, 27 § 211  
   Liquor Law Repeal and Enforcement Act, 27 § 151  
   Motor Carrier Act, 49 § 303  
   Potato Act, 7 § 801 (a)  
   Public Utility Holding Company Act, 15 § 79b (1)  
   Railroad Retirement Act, 45 § 215  
   Social Security Act, 42 § 1301  
   Tobacco inspection act, 7 § 511  
   War munitions control, 22 § 245b  
 Pooled fund, 42 § 1110  
 Potatoes, 7 § 611  
   Potato Act, 7 § 801 (1)  
 Private carrier by motor vehicle, 49 § 303

## Definitions—Continued

Processing, 7 § 609 (d)  
 Producer, Potato Act, 7 § 801 (j)  
 Property, 40 § 304f  
 Public utility company, 15 § 79b (5)  
 Puerto Rico tobacco, 7 § 751 (l)  
 Purchase, 15 § 79b (22)  
 Receiver, 12 § 264 (c)  
 Registered holding company, 15 § 79b (12)  
 Regulation, Liquor Law Repeal and Enforcement Act, 27 § 151  
 Reserve account, 42 § 1110  
 Retirement, 45 § 215  
 Sale  
   Potato Act, 7 § 801 (d)  
   Public Utility Holding Company Act, 15 § 79b (23)  
 Sale of electric energy at wholesale, 16 § 824  
 Sales contract, 15 § 79b (20)  
 Savings bank, 12 § 264 (c)  
 Secretary, tobacco inspection act, 7 § 511  
 Securities of the United States, 31 § 773d  
 Security, 15 § 79b (16)  
 Service contract, 15 § 79b (19)  
 Service period, 45 § 215  
 Services, Motor Carrier Act, 49 § 303  
 Shareholder, 42 § 1301  
 State, 15 § 79b (24); 27 § 211; 42 § 1301  
   Motor Carrier Act, 49 § 303  
 State bank, 12 § 264 (c)  
 State commission, 15 § 79b (26)  
 State member bank, 12 § 264 (c)  
 State securities commission, 15 § 79b (27)  
 Subsidiary company, 15 § 79b (8)  
 Tax-exemption stamp, Potato Act, 7 § 801 (h)  
 Tax stamp, Potato Act, 7 § 801 (g)  
 Territory, 27 § 211  
 Trade buyer, 27 § 211  
 Transferred deposit, 12 § 264 (c)  
 Transportation, 49 § 303  
 United States, 15 § 79b (25); 22 § 245b; 27 § 211; 42 § 1301  
   Anti-Smuggling Act, 19 § 1709  
 Utility assets, 15 § 79b (18)  
 Voting security, 15 § 79b (17)  
 Wages, 42 § 410, 1011, 1107  
 Weigher, 7 § 511  
 Wine, 27 § 211  
 Year of compensation experience, 42 § 1110  
**Dependent Children**  
 Grants to states for aid to. Social Security Act, this index  
**Director of Procurement**  
 Leasing additional space for federal agencies, 40 § 304c  
**Discrimination**  
 Motor carriers, prohibited, 49 § 322  
**District Courts**  
 Additional term, Southern District of Florida, 28 § 149a  
 Agricultural adjustment act, review of orders of Secretary of Agriculture, 7 § 608c (15)  
 Alaska, this index  
 Motor carriers  
   Jurisdiction to restrain violations and enforce orders, 49 § 322  
   Restraining violations of provisions as to consolidation and mergers and enforcing orders, 49 § 313  
 Refund of taxes under agricultural adjustment act, 7 § 623 (d)  
**District Judges**  
 Additional judges, Eastern District of New York, 28 § 41  
   Eastern District of Virginia, 28 § 4g  
   Southern District of California, 28 § 4e  
**Vacancies**  
 Certain districts, 28 § 4h  
 Southern District of California, 28 § 4f  
**District of Columbia**  
 Convict-made goods, prohibition against shipment for use in violation of local law, 49 § 63  
 Motor carriers, extension of credit for shipments, 49 § 323  
 Retirement of employees, continuance in service less than 30 days after reaching retirement age, 5 § 715c  
**Dredging**  
 Claims arising out of, jurisdiction and limitations, 28 § 250a  
**Eagle Pass Military Reservation**  
 Sale authorized, 10 § 1594a  
**Electric Utility Companies**  
 Accounts, records, and memoranda, 16 § 823  
 Adequate service, requirement, 16 § 824f  
 Ascertainment of cost and depreciation for rate-making purposes, 16 § 824g  
 Attorneys, employment of by Commission, 16 § 825m  
 Complaints in respect to, 16 § 825e  
 Conflict of jurisdiction, 16 § 825g  
 Consolidations, 16 § 824b  
 Cooperation with state commissions, 16 § 824h  
 Court review of orders, 16 § 825f  
 Definitions, 16 § 824

**Electric Utility Companies—Continued**

- Depreciation rates, 16 § 825a
- Disclosure of information, 16 § 825
- Disposition of facilities, 16 § 824b
- Dividends, declaring out of capital account, 16 § 825d
- Federal agencies, application of act to, 16 § 825b
- Fixing rates and charges, power of Commission, 16 § 824e
- Forfeitures for failure to comply with orders, 16 § 825n
- Hindering or obstructing, filing of reports, etc., 16 § 825c
- Injunctions, 16 § 825m
- Interconnection and coordination of facilities, 16 § 824a
- Interlocking directorates, 16 § 825d
- Investigation as basis for recommending legislation, 16 § 825j
- Investigations and hearings, 16 § 825f
  - Procedure, 16 § 825g
- Jurisdiction of proceedings against, 16 § 825p
- Mandamus, 16 § 825m
- Officers and employees, appointment of and compensation, 16 § 825i
- Officers or directors, dealing in securities, 16 § 825d
- Penalties, 16 § 825o
- Periodic and special reports, 16 § 825c
- Powers of Commission, 16 § 825h
- Procedure on hearings, 16 § 825g
- Publication and sale of reports, 16 § 825k
- Rates, 16 §§ 824d, 824e
- References to joint boards, 16 § 824h
- Regulation of, declaration of policy, 16 § 824
- Rehearings, 16 § 825l
- Reports of securities, 16 § 824c
- Reports to Congress after investigation, 16 § 825j
- Rules, regulations, and orders, 16 § 825h
- Schedules, 16 § 824d
- Securities, issuance of, 16 § 824c
- Separability of law, 16 § 825r
- Statistical and other special services by Commission, charges for, 16 § 825k
- Temporary connection and exchange of facilities, 16 § 824a
- Transmission of energy to foreign countries, 16 § 824a

**Emergency Farm Mortgage Act of 1933**

- Loans to farmers by Land Bank Commissioner, valuation of farm property, 12 § 1016

**Emergency Public Works and Construction Projects**

- Emergency Relief Appropriation Act of 1935

**Emergency Railroad Transportation Act of 1933**

- Assessments on carriers for expenses of coordinator, 49 § 264a
- Duration of law, extension, 49 § 267a

**Emergency Relief Appropriation Act of 1935**

- See 15 § 728 note

**Employees**

- Interstate commerce commission under Motor Carrier Act, 49 § 305 (k)

**Examiners**

- Interstate commerce commission,
  - Employment under Motor Carrier Act, 49 § 305 (k)
  - Inspection of records of motor carriers, 49 § 320

**Excise Tax**

- Carriers, 45 § 244

**Exemptions**

- Agricultural adjustment act, retailers and producers, 7 § 608c (13)
- Tax exemption stamps, Potato Act, 7 § 810

**Explosives**

- Transportation regulated,
  - Inflammable materials on cargo vessels, 46 § 178
  - Penalty and liability of vessel for shipping inflammable materials, 46 § 179

**Express**

- Motor carriers, transportation, 49 § 308 (d)

**Evidence**

- Tobacco inspection, certificate as evidence, 7 § 511f

**Federal Deposit Insurance Corporation**

- Assessments, 12 § 264 (h)
- Bond, necessity in acting as receiver, 12 § 264 (m)
- Certificate of Comptroller of Currency, 12 § 264 (e)
- Certificate to do business, factors considered, 12 § 264 (g)
- Definitions, 12 § 264 (c)
- Depository and financial agent, status as, 12 § 264 (n)
- Discharge from liability by paying insured deposit, 12 § 264 (m)
- Extension of temporary plan for insurance, 12 § 264 note
- Forfeiture of rights, 12 § 264 (h)
- Insurance of deposits, separability of provisions relating to, 12 § 264 (z)
- Insured banks, termination of status, 12 § 264 (i)
- Insured banks within act, 12 § 264 (e)
- Investment of money, 12 § 264 (n)
- Loans to closed banks, 12 § 264 (n)
- Nonmember banks, discrimination against, 12 § 264 (y)
- Organization of new banks or transfer of business, 12 § 264 (l)
- Permanent insurance fund, 12 § 264 (l)
- Receivership for bank losing insured status, 12 § 264 (i)

**Federal Deposit Insurance Corporation—Continued**

- Sale of assets of closed banks, 12 § 264 (n)
- State banks,
  - Membership in Reserve System, 12 § 264 (y)
  - Termination of membership in Federal Reserve System, 12 § 264 (y)
- Trust funds, insurance of, 12 § 264 (h)
- Unclaimed deposits, 12 § 264 (m)

**Federal Home Loan Banks**

- Federal Home Loan Bank Board
  - Receipts from assessments on banks, deposit, and use, 12 § 1439
- Federal Savings and Loan Advisory Council, creation, composition and duties, 12 § 1428a
- Loans and advances
  - Non-member mortgagees, terms and conditions, 12 § 1430b

**Federal Intermediate Credit Banks**

- Consolidated debentures, authority to issue and sell, 12 § 1044
- Debentures, lawful investments for fiduciary fund, 12 § 1045
- Directors ex officio disqualified on conviction of felony or court award of damages for fraud, 12 § 682a
- Fiduciary and trust funds, investment in debentures, 12 § 1045
- Information as to institutions receiving loan, 12 § 1095

**Federal Land Banks**

- Directors
  - Disqualification on conviction of felony or court award of damages for fraud, 12 § 682a
- Execution of instruments, presumption of authority, 12 § 1016 (h)
- Officers
  - Disqualification on conviction of felony or court award for damages for fraud, 12 § 682a

**Federal Power Act**

- Short title, 16 § 791a

**Federal Register**

- Administrative committee, 44 § 306
- Appropriations, 44 § 309
- Archives establishment, division created in, 44 § 301
- Citation, 44 § 307
- Conflicting laws, 44 § 313
- Constructive notice, filing document as, 44 § 307
- Cost of publication, 44 § 309
- Custody and printing of federal documents, 44 § 301
- Definitions, 44 § 304
- Filing documents, 44 § 302
- Franking privilege, 44 § 309
- International agreements excluded, 44 § 312
- Judicial notice, 44 § 307
- Notice of hearing, publication in register as, 44 § 308
- Presumption of validity, publication as, 44 § 307
- Printing, contents, distribution and price, 44 § 303
- Publication of documents, 44 § 305
- Report of documents previously issued, 44 § 311
- Time for publication, 44 § 310
- Title of act, 44 § 314

**Federal Reserve Banks**

- Examination, expense of, 12 § 482
- Examiners, salaries of, 12 § 482
- Loans
  - Extension of time for renewal of loans to officers, 12 § 375a
- Open market policy, 12 § 247a
- Record of action on policy relating to open market operation, 12 § 247a
- Report to Congress of action in respect of open market policy, 12 § 247a

**Federal Reserve Board**

- Percentage of capital and surplus represented by loans, determination of, 12 § 248 (m)

**Federal Reserve System**

- Reserves against public deposits, 12 § 462a-1
- State banks, waiver of requirements for membership, 12 § 329a

**Federal Savings and Loan Advisory Council**

- Federal Home Loan Banks, this index

**Field Corn**

- Process tax, 7 § 609 (b)

**Filled Milk**

- Rules for enforcing law, 21 § 64

**Fines, Penalties, and Forfeitures**

- Agricultural adjustment act,
  - Surrender of warehoused goods without receipt, 7 § 608f
  - Violation of orders, 7 § 608c (14)
- Convict-made goods, prohibition against shipment for use in violation of local law, 49 § 63
- Liquor Law Repeal and Enforcement Act, 27 § 159
- Load line of vessels, violation of law, 46 § 88g
- Motor carriers, unlawful operation, 49 § 322
- Potato Act, 7 §§ 814, 820, 821, 823, 824
- Poultry dealers in cities and markets designated by Secretary of Agriculture as exercising unfair practices, 7 § 218a